

David Lopez
April 09, 2018

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

Immobiliaria JRB, S.A.)
De D.V.)
) Case No. 3:17-CV-194
) Admiralty 9(H)
VS.)
)
M/V Caballo Maya, Et)
at.)

ORAL DEPOSITION OF

DAVID LOPEZ

APRIL 9, 2018

ORAL DEPOSITION of DAVID LOPEZ, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on April 9, 2018, from 10:26 a.m. to 1:43 p.m., before Denyce M. Sanders, RDR, CRR, TCRR, CCR (LA), in and for the State of Texas, recorded by machine shorthand, at the offices of, ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P., 1600 Louisiana Street, Suite 5000, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto; that the deposition shall be read and signed before any notary public.

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2 to 5

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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 HARRIS & RUFTY, L.L.C.</p> <p>5 650 Poydras Street, Suite 2710</p> <p>6 New Orleans, Louisiana 70130</p> <p>7 Mr. Alfred J. Rufty III</p> <p>8 504.525.7500</p> <p>9 ajr@harrisrufty.com</p> <p>10</p> <p>11 FOR THE DEFENDANT:</p> <p>12 MILLS SHIRLEY L.L.P.</p> <p>13 2228 Mechanic Street, Suite 400</p> <p>14 Galveston, Texas 77550</p> <p>15 Mr. Andres "Andy" Soto</p> <p>16 409.761.4228</p> <p>17 asoto@millsshirley.com</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20</p> <p>21 Mr. Aaron Omar Olvera Monroy</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 INDEX</p> <p>2 ORAL DEPOSITION OF</p> <p>3 DAVID LOPEZ, APRIL 9, 2018</p> <p>4</p> <p>5 APPEARANCES..... 2</p> <p>6 BY MR. SOTO..... 5</p> <p>7 BY MR. RUFTY..... 125</p> <p>8 BY MR. SOTO..... 129</p> <p>9 BY MR. RUFTY..... 134</p> <p>10 BY MR. SOTO..... 135</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 WITNESS CORRECTIONS AND SIGNATURE..... 138</p> <p>16 REPORTER CERTIFICATION..... 140</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 EXHIBIT INDEX</p> <p>2 ORAL DEPOSITION OF</p> <p>3 DAVID LOPEZ, APRIL 9, 2018</p> <p>4 Description Page</p> <p>5</p> <p>6 Exhibit 1 CV..... 6</p> <p>7</p> <p>8 Exhibit 2 Declaration of David Lopez.... 12</p> <p>9</p> <p>10 Exhibit 3 7-3-15 letter from PGR to 42</p> <p>11 Oscar Israel Garcia Cordova,</p> <p>12 Esquire</p> <p>13</p> <p>14 Exhibit 4 5-12-16 letter from Gabriel .. 53</p> <p>15 Cruz Cruz, Esquire, to</p> <p>16 Attorney General's Office</p> <p>17</p> <p>18 Exhibit 5 Certificate of Delivery as ... 71</p> <p>19 Depository of the Caballo</p> <p>20 Maya</p> <p>21</p> <p>22 Exhibit 6 Petition to Lift 92</p> <p>23 Precautionary Seizure</p> <p>24</p> <p>25</p>	<p>1 DAVID LOPEZ,</p> <p>2 having been first duly sworn, testified as follows:</p> <p>3 E X A M I N A T I O N</p> <p>4 BY MR. SOTO:</p> <p>5 Q. Mr. Lopez, good morning. You and I just met.</p> <p>6 You know my name is Andy Soto. I represent the</p> <p>7 Defendant in this case, the Caballo Maya, who is</p> <p>8 being -- the owner, Marfield, has made a restricted</p> <p>9 appearance to defend the vessel.</p> <p>10 You've done plenty of depositions, and so I</p> <p>11 think we can skip all the preliminary rules about</p> <p>12 talking over each other. I think we're going to be</p> <p>13 just fine. We can jump right into it.</p> <p>14 One of the things that I think I do want to</p> <p>15 do, though, is, let's just get an agreement as to the</p> <p>16 names, because we have some very long names, and I</p> <p>17 think we all tend to abbreviate them. I just want to</p> <p>18 make sure that for the purposes of the record, it's</p> <p>19 very clear who we are talking about when we use these</p> <p>20 abbreviations.</p> <p>21 And so the Plaintiff in this case is</p> <p>22 Inmobiliaria JRB, S.A. de C.V. I sometimes call them</p> <p>23 JRB or Inmobiliaria. Is that understood?</p> <p>24 A. Yes. And thank you for doing that, I do the</p> <p>25 same.</p>

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6 to 9

<p style="text-align: right;">Page 6</p> <p>1 Q. And then we have another company, which is</p> <p>2 GGM Shipping, S.A. de C.V., which subsequently changed</p> <p>3 its name to Shipping Group Mexico SGM, S.A. de C.V.</p> <p>4 Can we have an agreement that we will just</p> <p>5 refer to that company as SGM?</p> <p>6 A. Yes.</p> <p>7 Q. Does that work for you?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And the last, we have Oceanografía,</p> <p>10 S.A. de C.V. I sometimes just call them Oceanografía.</p> <p>11 I know Counsel has referred to them as OSA. Either</p> <p>12 one is fine with me.</p> <p>13 Is that okay?</p> <p>14 A. I'll understand both of those terms to apply</p> <p>15 to Oceanografía, S.A. de C.V.</p> <p>16 Q. Right.</p> <p>17 Okay. Let's talk about your curriculum vitae</p> <p>18 that you have produced in this case, along with</p> <p>19 your -- curriculum vitae that you have produced in</p> <p>20 this case. I've already premarked it as Exhibit 1.</p> <p>21 I'm going to hand you a copy right there.</p> <p>22 (Exhibit 1 marked/introduced.)</p> <p>23 A. Thank you.</p> <p>24 Q. (BY MR. SOTO) Is this curriculum vitae</p> <p>25 up-to-date?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. To the best of my knowledge, yes.</p> <p>2 Q. Is there any education, special training,</p> <p>3 license or certification relevant to this lawsuit that</p> <p>4 is not included in this curriculum vitae?</p> <p>5 A. No.</p> <p>6 Q. I do not see that you have a college degree</p> <p>7 in Mexico; is that correct?</p> <p>8 A. I am -- do not have a college degree in</p> <p>9 Mexico.</p> <p>10 Q. Okay. I don't see that you attended law</p> <p>11 school in Mexico; is that correct?</p> <p>12 A. I taught in law school in Mexico, but I did</p> <p>13 not attend law school in Mexico.</p> <p>14 Q. What law school classes did you teach?</p> <p>15 A. I taught at the Autonomous University of</p> <p>16 Guadalajara in an international program sponsored by</p> <p>17 Baylor Law School dealing with the North American Free</p> <p>18 Trade Agreement, Mexican law, U.S. law and Canadian</p> <p>19 law.</p> <p>20 I taught at Panamericana University in Mexico</p> <p>21 City years ago. I don't remember the subject matter</p> <p>22 of the course. It may have been some sort of</p> <p>23 comparative law course back when I was a law</p> <p>24 professor.</p> <p>25 I taught at the University of Monterrey,</p>
<p style="text-align: right;">Page 8</p> <p>1 again, of course, a number of years ago, dealing with</p> <p>2 Mexican law, U.S. law, Canadian law in a comparative</p> <p>3 sense. It may have been only U.S. and Mexican law.</p> <p>4 It's been a number of years. I don't remember.</p> <p>5 There may have been other times that I taught</p> <p>6 or presented at law schools in Mexico.</p> <p>7 For example, I might have done a presentation</p> <p>8 at what's called ITAM, I-T-A-M, which is the</p> <p>9 Technological -- Autonomous Technological Institute of</p> <p>10 Mexico, which is in Mexico City.</p> <p>11 Q. Are you an attorney licensed to practice in</p> <p>12 Texas?</p> <p>13 A. Yes.</p> <p>14 Q. Have you been certified in any areas of law</p> <p>15 by the Texas Board of Legal Specialization?</p> <p>16 A. No, sir.</p> <p>17 Q. Have you been engaged as a lawyer to</p> <p>18 represent a client in a maritime lien case in Texas?</p> <p>19 A. No.</p> <p>20 Q. And you are not an attorney licensed to</p> <p>21 practice in Mexico; is that correct?</p> <p>22 A. I'm not licensed to practice in Mexico.</p> <p>23 Q. Have you ever been retained to represent a</p> <p>24 client in a maritime lien case in Mexico?</p> <p>25 A. Not as counsel of record. One of the things</p>	<p style="text-align: right;">Page 9</p> <p>1 that I've done for many years now is serve as</p> <p>2 litigation counsel on cross-border disputes. And to</p> <p>3 the extent any of those cases may have involved</p> <p>4 maritime issues, I would have been an attorney</p> <p>5 involved in the proceeding, but not counsel of record</p> <p>6 in Mexico.</p> <p>7 In addition, I've done multiple maritime law</p> <p>8 cases as an expert witness over the years. But,</p> <p>9 again, I'm not counsel in those cases.</p> <p>10 Q. Well, let's break that down.</p> <p>11 A. Sure.</p> <p>12 Q. Have you ever arrested a vessel in Mexico?</p> <p>13 A. No. Or anywhere.</p> <p>14 Q. Have you ever defended a vessel or a vessel</p> <p>15 owner than that has been arrested in Mexico?</p> <p>16 A. No.</p> <p>17 Q. You said that you have been an expert in</p> <p>18 maritime cases?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Are those Jones Act cases, or are they</p> <p>21 personal injury cases? Are they lien cases?</p> <p>22 A. I can't answer your question, because you're</p> <p>23 referring to U.S. law as the basis for the case.</p> <p>24 Q. Fair enough.</p> <p>25 A. Yeah.</p>

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10 to 13

<p style="text-align: right;">Page 10</p> <p>1 Q. Let me rephrase that.</p> <p>2 A. Sure.</p> <p>3 Q. How about this: What types of maritime cases</p> <p>4 have you been an expert -- testifying expert in?</p> <p>5 A. Sure.</p> <p>6 Q. And when you answer your question, can you</p> <p>7 give me the dates and the case name so I can go ahead</p> <p>8 and find it?</p> <p>9 A. I can't give you dates. I just can't.</p> <p>10 Because it's been over a period of years --</p> <p>11 Q. Sure.</p> <p>12 A. -- and I would only be guessing.</p> <p>13 Now, I can try to find the dates after the</p> <p>14 deposition and provide that information to you.</p> <p>15 Q. Fair enough.</p> <p>16 A. I know that I have dealt on at least one</p> <p>17 occasion, and maybe two, with other cases involving</p> <p>18 Oceanografía, or OSA, with regard to maritime matters.</p> <p>19 I could try to identify that case or those cases for</p> <p>20 you and let you know more thoroughly what the issues</p> <p>21 were that were involved and when my involvement</p> <p>22 occurred.</p> <p>23 In addition, I was an expert witness for</p> <p>24 the -- for one of the defendants in the BP oil spill</p> <p>25 case in lawsuits brought my Mexican states against</p>	<p style="text-align: right;">Page 11</p> <p>1 British Petroleum and others. And that case involved</p> <p>2 pretty extensive analysis of Mexican maritime law,</p> <p>3 both at a constitutional level, case-law level with</p> <p>4 regard to the law of maritime commerce and navigation</p> <p>5 and regulations.</p> <p>6 That's what comes to mind as I sit here</p> <p>7 today.</p> <p>8 Q. What about specifically maritime lien cases?</p> <p>9 A. Again, when I refer to the OSA work or</p> <p>10 matters that I have been involved within the past,</p> <p>11 those may have been maritime lien cases, I just can't</p> <p>12 tell you offhand right now.</p> <p>13 Q. So they may have, you're not sure?</p> <p>14 A. I honestly don't remember the substance of</p> <p>15 the cases. It's been quite a bit of time, and I've</p> <p>16 done quite a bit of work in Mexican law over the</p> <p>17 years.</p> <p>18 Q. Do you remember, were those cases that were</p> <p>19 docketed in the U.S., or were they Mexican cases?</p> <p>20 A. They probably were U.S. cases -- well, the BP</p> <p>21 case in particular, and so my guess would be that</p> <p>22 these were U.S. lawsuits in which I was involved as an</p> <p>23 expert on matters of Mexican maritime law. And they</p> <p>24 may have involved some proceedings in Mexico, but I</p> <p>25 would not have been directly involved in those,</p>
<p style="text-align: right;">Page 12</p> <p>1 although I may have reviewed the pleadings, and the</p> <p>2 analysis of those proceedings may have been part of my</p> <p>3 work.</p> <p>4 Q. Okay. Is it fair to say that you don't have</p> <p>5 any experience in arresting vessels or defending</p> <p>6 against arresting vessels?</p> <p>7 A. I'm not a maritime lawyer, so that would be</p> <p>8 fair to say.</p> <p>9 Q. Let's talk about your testifying experience.</p> <p>10 Exhibit 1 is just your CV?</p> <p>11 A. Yes.</p> <p>12 Q. So -- we can mark your affidavit.</p> <p>13 (Exhibit 2 marked/introduced.)</p> <p>14 Q. (BY MR. SOTO) I'm going to mark your</p> <p>15 affidavit, or the declaration of David Lopez, as</p> <p>16 Exhibit 2.</p> <p>17 A. Thank you.</p> <p>18 Q. You're welcome.</p> <p>19 And I will tell you, I have -- I've gone</p> <p>20 through some of the cases in your report, but</p> <p>21 certainly not all of them. But I'd like to -- I'd</p> <p>22 like to sort of just discuss broadly the different</p> <p>23 areas in which you've appeared as an expert in Mexican</p> <p>24 law, because they're pretty wide-ranging.</p> <p>25 Have you testified as an expert in custody</p>	<p style="text-align: right;">Page 13</p> <p>1 cases?</p> <p>2 A. Yes.</p> <p>3 Q. And I'm talking specifically about Mexican</p> <p>4 law here in this line of questions.</p> <p>5 A. Yes, as well as in international child</p> <p>6 abduction cases that -- which, in fact, turn on issues</p> <p>7 of custody at the time the child was removed.</p> <p>8 Q. Do you consider yourself an expert in</p> <p>9 custody -- Mexican custody law?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Have you testified as an expert in</p> <p>12 Mexican divorce cases?</p> <p>13 A. Yes. Frequently.</p> <p>14 Q. And do you consider yourself an expert in</p> <p>15 Mexican divorce cases?</p> <p>16 A. Yes, but let me make a clarification to you.</p> <p>17 Where I've testified is in U.S. divorce cases</p> <p>18 involving issues of Mexican marital law.</p> <p>19 Q. Okay.</p> <p>20 A. Whether it's marital property law or</p> <p>21 formation of the marriage, as well as with regard to</p> <p>22 Mexican divorces as well.</p> <p>23 Q. Do you consider yourself an expert on Mexican</p> <p>24 divorce law?</p> <p>25 A. Yes.</p>

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14 to 17

<p style="text-align: right;">Page 14</p> <p>1 Q. Because I assume what you're talking about is</p> <p>2 comparative analysis of Mexican divorce law and U.S.</p> <p>3 divorce law, which would require an expertise in both?</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 A. I don't testify about U.S. law.</p> <p>7 Now, when I was a very young lawyer, I did do</p> <p>8 family practice and was a divorce lawyer for a couple</p> <p>9 years, but I don't think of myself as an expert in</p> <p>10 Mexican family law, for example.</p> <p>11 But Mexican divorce law or marriage law and</p> <p>12 marital property regime law is relevant in Texas cases</p> <p>13 where the parties got married in Mexico, then they</p> <p>14 moved to the United States; and after some time here,</p> <p>15 they get divorced. And sometimes there are questions</p> <p>16 that come up in those cases about whether the election</p> <p>17 in Mexico of a separate property regime for the couple</p> <p>18 or a community property regime is enforceable in</p> <p>19 Texas.</p> <p>20 Q. Have you testified as an expert in personal</p> <p>21 injury cases?</p> <p>22 A. Many times.</p> <p>23 Q. Do you consider yourself an expert in</p> <p>24 personal injury law?</p> <p>25 A. Yes. Mexican personal injury law.</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Fair enough.</p> <p>2 Have you testified as an expert in</p> <p>3 international trade law?</p> <p>4 A. Yes, I believe so. There have been some</p> <p>5 cases where I've talked about customs law and</p> <p>6 importation and exportation law for Mexico.</p> <p>7 Q. Okay. Do you consider yourself an expert in</p> <p>8 that field?</p> <p>9 A. Yes.</p> <p>10 Q. Have you testified as an expert in Mexican</p> <p>11 criminal law?</p> <p>12 A. Yes.</p> <p>13 Q. Do you consider yourself to be an expert in</p> <p>14 Mexican criminal law?</p> <p>15 A. I consider myself to be qualified as an</p> <p>16 expert to help U.S. courts understand Mexican criminal</p> <p>17 law, yes.</p> <p>18 Q. Have you testified as an expert in Mexican</p> <p>19 real estate law?</p> <p>20 A. To the extent your question asks about</p> <p>21 recording of interest, trusts, which is an important</p> <p>22 way of owning property -- real property in Mexico,</p> <p>23 especially for foreigners, and things of that nature,</p> <p>24 then, yes, I have testified on those issues as an</p> <p>25 expert before.</p>
<p style="text-align: right;">Page 16</p> <p>1 Q. Okay. Do you consider yourself an expert in</p> <p>2 Mexican real estate law?</p> <p>3 A. To the extent it involves the issues that I</p> <p>4 just mentioned, yes.</p> <p>5 Q. Okay. What about bankruptcy cases, have you</p> <p>6 testified as an expert in Mexican bankruptcy law?</p> <p>7 A. I've testified as -- I've testified on</p> <p>8 bankruptcy issues under Mexican law in U.S. cases at</p> <p>9 least once, perhaps twice.</p> <p>10 Q. Is that an area you feel that you are an</p> <p>11 expert in?</p> <p>12 A. Yes.</p> <p>13 Q. Have you testified as an expert in cases</p> <p>14 involving Mexican tax law?</p> <p>15 A. No.</p> <p>16 Q. Do you consider yourself an expert in Mexican</p> <p>17 tax law?</p> <p>18 A. Not at all. That's an area that I avoid.</p> <p>19 Q. Do you consider yourself an expert in Mexican</p> <p>20 maritime liens?</p> <p>21 A. I consider myself -- yes, I consider myself</p> <p>22 qualified to help the court understand what law</p> <p>23 applies to a Mexican maritime lien situation, what the</p> <p>24 law provides, and the implications of the application</p> <p>25 of that law to a set of facts.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. There's a little distinction there, though,</p> <p>2 between --</p> <p>3 A. Okay.</p> <p>4 Q. -- being qualified to explain to the court</p> <p>5 what law applies in a given situation and being an</p> <p>6 expert in a particular area.</p> <p>7 So my question to you is: Do you consider</p> <p>8 yourself to be an expert in the area of Mexican</p> <p>9 maritime liens?</p> <p>10 A. Tell me what you mean by the distinction. If</p> <p>11 you'll clarify the question, maybe I can answer it.</p> <p>12 Q. Sure.</p> <p>13 There's -- there is a difference between</p> <p>14 telling the court that this is the law they need to</p> <p>15 look at, as opposed to being an expert in that area of</p> <p>16 law by virtue of training or education or experience.</p> <p>17 And so, again, my question is: Do you</p> <p>18 consider yourself an expert in the area of Mexican</p> <p>19 maritime lien law?</p> <p>20 A. I don't see the distinction you're making, so</p> <p>21 I guess I would say yes.</p> <p>22 Q. Yes, you do?</p> <p>23 A. I do.</p> <p>24 Q. And what is the basis of that expertise?</p> <p>25 A. Well, beginning in 1994, I began studying,</p>

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18 to 21

<p style="text-align: right;">Page 18</p> <p>1 investigating, understanding Mexican law, all aspects 2 of it, from the Constitution down to various inferior 3 or lower-level sources of law. And so I clearly have 4 an understanding of the structure and operation of the 5 Mexican legal system, of the Mexican judicial system. 6 And within that, I'm an expert at identifying what law 7 may apply to a given factual issue or circumstance 8 that you have, identifying a law, assessing which law 9 is accurate for a particular situation, and helping 10 the U.S. court understand what that law means in the 11 context of the situation. 12 Q. What special education have you received with 13 respect to Mexican maritime lien law? 14 A. I've never taken a Mexican maritime lien 15 course or lien class in a Mexican law school. But, 16 again, I guess we're sort of talking about two 17 different things. 18 To understand Mexican law, you don't have to 19 take a class in maritime law. You have to understand 20 how the Mexican legal system is structured, you have 21 to understand where to find the appropriate law, you 22 have to understand how Mexicans interpret different 23 legal provisions. And then it's really 24 straightforward. 25 See, the civil law system, as compared to the</p>	<p style="text-align: right;">Page 19</p> <p>1 common law system, is intended to be more objective, 2 more simplified, more organized and structured. And 3 so with that understanding, it's not rocket science to 4 determine what the applicable law here is. 5 Moreover, if you look at Mr. -- is it 6 Mr. Garza, is he your expert? Is that right? 7 Q. He is. 8 A. He and I really disagree about very few 9 things. We agree about the relevant law applicable in 10 this situation. We agree about the fact that a 11 maritime lien situation is a two-step process, you 12 have to be a creditor in your own right in order to 13 take advantage of the maritime privilege. 14 And so, if anything, I think that confirms my 15 point that the background you need to do the 16 assessment in this case to help the judge understand 17 the relevant law doesn't require any special training 18 beyond the training that I have as a Mexican law 19 expert over more than 20 years, as well as a teacher 20 and author on Mexican law. 21 Q. I do think we're talking past each other. 22 A. Okay. 23 Q. And so I want to get back -- focused here. 24 A. Sure. 25 Q. My question is not whether or not you have an</p>
<p style="text-align: right;">Page 20</p> <p>1 understanding of Mexican law, whether you are a 2 student of Mexican law generally, whether or not you 3 can identify law that should be applied in any given 4 situation. 5 My question is, with respect to your 6 background, again, your training, your education and 7 your experience, and specifically focusing on the area 8 of Mexican maritime law, whether there is anything 9 specific to that area of law that you have studied, 10 received training, received some kind of 11 certification, a specialization, something along those 12 lines is specific what I'm asking about right now. 13 A. Okay. Well, maybe those are your questions, 14 then. 15 Have I received a certificate in Mexican 16 maritime law, no. 17 Have I attended a Mexican class in a law 18 school on maritime law, no. 19 Q. Have you attended any class anywhere on 20 maritime law? 21 A. No. 22 Q. Has your testimony, your expert testimony, 23 ever been struck by a court? 24 A. I've never -- as far as I know, in the more 25 than 135 cases in which I've testified either live or</p>	<p style="text-align: right;">Page 21</p> <p>1 by affidavit, I've never been unqualified on Mexican 2 law, not even from the earliest cases. 3 Q. Again, it's a little different. 4 I'm not asking whether or not you've been 5 qualified or unqualified -- 6 A. Sure. 7 Q. -- I'm asking specifically, has a court ever 8 struck your testimony? 9 A. Not that I'm aware of. 10 Q. Okay. Let's look at your report, which is 11 Exhibit 2. 12 A. Okay. 13 Q. Is this a complete report that you have 14 authored in this case? 15 A. As of January 17, 2018, it is, yes. 16 Q. Okay. As we sit here today, is there -- have 17 you added or supplemented this report? 18 A. Well, if you notice, in paragraph 1.6 on 19 page 3, I list the different case materials that I've 20 reviewed. Things like the complaint and different 21 declarations of the parties, as well as underlying 22 evidence. 23 But I -- very importantly, at the end of that 24 section, I say: "I reserve the right to expand or 25 modify my opinions in this matter based on additional</p>

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22 to 25

<p style="text-align: right;">Page 22</p> <p>1 case materials presented to me in the future." 2 Since the time of this affidavit, I've 3 received a couple of additional items: one is the 4 expert report of Mr. Garza, which I received 5 yesterday. 6 Q. And I don't want to cut you off, but we'll 7 get to the additions, and I'm going to give you a 8 chance to talk about that. 9 A. Okay. 10 Q. But let's just go back to my original 11 question. 12 Have you prepared any additional amendments 13 or supplements? 14 MR. RUFTY: Please let him finish his 15 answer. I think he was in the process of answering 16 your question. 17 A. Let me answer your question directly, and 18 then I'll fill in the rest. 19 I don't have a supplemental affidavit to give 20 you today. 21 Q. (BY MR. SOTO) Okay. 22 A. So I have not written anything in addition 23 beyond what's Exhibit No. 2. 24 But that being said, I have been presented 25 with some new case materials that probably will lead</p>	<p style="text-align: right;">Page 23</p> <p>1 me to produce a supplemental report. 2 Q. Okay. When were you provided with these new 3 materials? 4 A. Yesterday. 5 Q. And when do you intend to provide your 6 supplemental report? 7 A. I don't have in mind any deadline. I 8 understand, from the discussion before the deposition, 9 that you guys have a July trial setting, and that will 10 factor into it, but I haven't had a discussion with 11 Mr. Rufty or anybody else about a deadline for my new 12 work. 13 Q. Do you still stand by the opinions and 14 conclusions in this report, or do you intend to change 15 those in your supplemental report? 16 A. I don't know yet. I have to look at the new 17 materials to determine whether or not they affect my 18 opinions. If they don't affect my opinions, then I'm 19 not going to change them. If they're consistent or 20 support my opinions, I won't change them. If they 21 cause me to think differently, then, of course, I'm 22 going to change my opinions to the extent that the new 23 materials make it necessary to do so. 24 Q. So as we sit here today, you cannot tell me 25 whether or not your opinions and conclusions are going</p>
<p style="text-align: right;">Page 24</p> <p>1 to change based on the materials that have been 2 provided to you yesterday? 3 A. Correct. I can't. 4 Q. As we sit here today, are you aware of any 5 corrections or alterations that need to be made to 6 this report? 7 A. No. The opinions that I express in my 8 affidavit of January 2018 are correct based on the 9 information that's reflected in the affidavit itself. 10 Q. Well, let's talk about -- as I said, I was 11 going to give you an opportunity to speak about the 12 documents you reviewed. Let's talk about those. 13 Those are in Section 1.6. 14 A. Yes, sir. 15 Q. And you were telling me today that this is 16 not a complete list of the documents that you've 17 reviewed; correct? 18 A. The documents listed in 1.6 were complete as 19 of January 2018 when I issued my declaration. But 20 since then, I've been given a couple of additional 21 documents. 22 Q. When you say "a couple," how many? 23 A. Two. 24 Q. What are the documents you've been provided? 25 A. The affidavit of Mr. Garza, which I received</p>	<p style="text-align: right;">Page 25</p> <p>1 yesterday; and then there is a document that I think 2 he refers to as delivery certificate, or certificate 3 of delivery, which is the English translation. And I 4 received that document this morning. 5 Q. When you received the -- the report of 6 Mr. Garza, did you receive the appendixes as well? 7 A. Yes. I include those as one document. 8 Q. Did you receive Caballo Maya's production in 9 this case? 10 A. I'm sorry? 11 Q. Did you receive the Defendant, Caballo 12 Maya's, production? 13 A. To the extent items listed in 1.6 are within 14 that production, then I have those documents, but I 15 don't recall receiving a set of materials called 16 "production by Caballo Maya." 17 MR. RUFTY: Are you referring to the 18 discovery responses of this past week? 19 MR. SOTO: I'm referring to documents 20 Bates-stamped Caballo Maya 1 through 477. 21 A. I don't remember seeing those Bates numbers 22 on anything that I reviewed. That doesn't mean that 23 that's not correct. It's been a while since I've 24 looked at the underlying documents. But Bates 25 numbering stands out in my mind as a litigator, and I</p>

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<p style="text-align: right;">Page 26</p> <p>1 don't remember Bates numbering on my records in this 2 case.</p> <p>3 Q. (BY MR. SOTO) So looking at the listed 4 materials that are set forth in 1.6 of your report, do 5 you believe this list to represent all the documents 6 that are relevant in this case?</p> <p>7 A. I can't answer your question yes or no. I 8 requested all documents relevant to the preparation of 9 my analysis and my opinions, and I believe I received 10 what was relevant.</p> <p>11 I really have not had time to digest 12 Mr. Garza's declaration and the materials attached to 13 it, much less the certificate of delivery that I 14 received this morning.</p> <p>15 Q. Have you reviewed the Plaintiff's responses 16 to written discovery in this case?</p> <p>17 A. I did receive, yesterday, a third -- a second 18 document yesterday -- thank you for reminding me -- 19 that I believe were some discovery responses by your 20 clients.</p> <p>21 Q. And that's -- it's good for us to get that. 22 So you reviewed yesterday or received 23 yesterday -- I don't know if you had a chance to 24 review them yet, but you received yesterday the 25 Defendant's discovery responses; correct?</p>	<p style="text-align: right;">Page 27</p> <p>1 A. If you -- during a break, I can get the 2 particular document and let you know for sure what the 3 title is.</p> <p>4 As I recall it, Mr. Soto, it's responses by 5 your client to discovery from JRB. And for the most 6 part, my reaction was that they were just not really 7 relevant to my work, for the most part. Maybe one or 8 two were.</p> <p>9 Q. Have you reviewed the Plaintiff's discovery 10 responses, the Plaintiff's answers to interrogatories 11 and request for productions that were issued by the 12 Defendant?</p> <p>13 A. I would answer no, because they don't appear 14 to be listed in 1.6. And I tried to be comprehensive 15 in my listing 1.6.</p> <p>16 Q. Well, and that's a good way to maybe shortcut 17 this and save some time.</p> <p>18 A. Sure.</p> <p>19 Q. Other than the documents listed in 1.6, and 20 other than Mr. Garza's report, the certificate of 21 discovery that's referenced in the report and the 22 Defendant's discovery responses, have you received and 23 reviewed any of the documents that are not identified 24 in 1.6?</p> <p>25 A. The documents you listed are the universe of</p>
<p style="text-align: right;">Page 28</p> <p>1 what I call case materials that I've reviewed. Of 2 course, I've reviewed secondary authority, I've 3 reviewed Mexican law. But putting aside everything 4 that's not immediately generated in this case, 5 your -- the way you described it is accurate.</p> <p>6 Q. Okay. Let's move to Section 1.7, which talks 7 about assumptions of facts that you have made in 8 reaching your opinions and conclusions.</p> <p>9 Do you know whether or not any of these 10 assumptions need to be changed or are no longer 11 accurate, based on any of the three documents that you 12 received and reviewed within the last few days?</p> <p>13 A. Okay. Again, I've had a very limited ability 14 to review those three documents, but let me go point 15 by point.</p> <p>16 In terms of Subsection (a), I believe that 17 remains correct.</p> <p>18 Subsection (b) is correct.</p> <p>19 Subsection (c) is correct.</p> <p>20 Subsection (d) continues to be correct, based 21 on information that I've received.</p> <p>22 Subsection (e) I understand to still be 23 correct.</p> <p>24 Subsection (f) I understand to be correct.</p> <p>25 And then Subsection (g) I understand to be</p>	<p style="text-align: right;">Page 29</p> <p>1 correct.</p> <p>2 So it appears that, based on what I've seen 3 in the new documents that I was given yesterday, even 4 including them, the facts recited in 1.7 remain 5 accurate, to the best of my information. And again, 6 I'm not a fact witness, just an expert witness.</p> <p>7 Q. And to be fair, though, you said you've not 8 had a chance to really review or digest those 9 materials; is that correct?</p> <p>10 A. That's right.</p> <p>11 Q. And if these assumptions turned out to 12 be -- if any of these assumptions turned out to be 13 false or incomplete, would that change your opinions 14 and conclusions?</p> <p>15 A. It would depend on the extent to which 16 they're -- they turn out to be incorrect or 17 incomplete. It's hard to say just as a general 18 matter.</p> <p>19 Q. And you say that these assumptions come from 20 "...case materials and information provided to me by 21 counsel..."</p> <p>22 A. Yes.</p> <p>23 Q. I want to break that down.</p> <p>24 A. Okay.</p> <p>25 Q. What assumptions come from information</p>

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<p style="text-align: right;">Page 30</p> <p>1 provided to you by counsel?</p> <p>2 A. In 1.7(d), I was informed by counsel that in</p> <p>3 July 2015, SGM engaged JRB to contract and arrange for</p> <p>4 the provision of services and supplies to maintain the</p> <p>5 vessel on SGM's behalf.</p> <p>6 Q. So (d) is an assumption that you were asked</p> <p>7 to be -- to make by counsel?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Any other information that was</p> <p>10 provided to you by counsel?</p> <p>11 A. With regard to 1.7(e), I did look at the</p> <p>12 invoices underlying those amounts. I did see that</p> <p>13 they included the supplies and services delineated in</p> <p>14 1.7(e). I believe I did my own calculation of the</p> <p>15 pesos for crew salaries and the pesos for pilotage and</p> <p>16 other port services, but it may be that I relied on</p> <p>17 Mr. Ruffy to make sure that the numbers were accurate</p> <p>18 and assume that, after he told me they were, that they</p> <p>19 were accurate.</p> <p>20 Q. Well, if you performed that calculation,</p> <p>21 did -- where is it? Do you have it?</p> <p>22 A. It might just have been on a piece of scratch</p> <p>23 paper where I just added the numbers, or I may have</p> <p>24 just used a calculator with the invoices to one side</p> <p>25 and, you know, added the numbers at the time.</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. Is that calculation set forth in a document</p> <p>2 that we can attach to your report?</p> <p>3 A. No. Not that I have.</p> <p>4 Q. It's no longer in your possession?</p> <p>5 MR. RUFFY: Object to form.</p> <p>6 A. Well, there may not have been a document, as</p> <p>7 I'm telling you. I may have just had the invoices</p> <p>8 with my calculator calculating. And then it might</p> <p>9 have been that I came to a number and said,</p> <p>10 "Mr. Ruffy, can you please confirm that these are more</p> <p>11 or less accurate?"</p> <p>12 And so I can tell you today that I don't have</p> <p>13 a document. Whether one existed, I don't know.</p> <p>14 Q. (BY MR. SOTO) Okay. Is there any other</p> <p>15 information that was provided to you by counsel that</p> <p>16 you relied upon?</p> <p>17 A. No. I believe I derived all of the other</p> <p>18 information in 1.7 from documents that I reviewed in</p> <p>19 the case.</p> <p>20 Q. Okay. Well, let's go through some of these.</p> <p>21 Let's go through (a).</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you know how Oceanografia came to be in</p> <p>24 possession of the Caballo Maya when it was arrested?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 32</p> <p>1 Q. You do not?</p> <p>2 A. No.</p> <p>3 Q. Were you aware of the arbitration --</p> <p>4 A. Let me ask you this -- I'm sorry.</p> <p>5 Are you asking me, am I, as a fact witness</p> <p>6 with firsthand knowledge, aware of how it came to be</p> <p>7 in the possession of OSA, or are you asking me am I</p> <p>8 aware as somebody who's read documents of what</p> <p>9 happened?</p> <p>10 Q. My understanding, as we sit here today, is</p> <p>11 that you are not a fact witness.</p> <p>12 Are you a fact witness with any firsthand</p> <p>13 knowledge of any of the information in this case?</p> <p>14 A. I am not.</p> <p>15 Q. So all of my questions are going to be not as</p> <p>16 a fact witness but an expert witness. But I'm glad</p> <p>17 you made that distinction, but did I not -- I was not</p> <p>18 aware of any facts that you would have obtained</p> <p>19 firsthand.</p> <p>20 And so my understanding is, you are purely an</p> <p>21 expert witness; is that accurate?</p> <p>22 A. You're exactly right.</p> <p>23 Q. Okay.</p> <p>24 A. And the reason why I -- why I asked for the</p> <p>25 clarification in the question is that I believe, when</p>	<p style="text-align: right;">Page 33</p> <p>1 I read Mr. Garza's declaration, in the limited time</p> <p>2 that I had to do it between yesterday and today, he</p> <p>3 had a number of facts about that process. And so</p> <p>4 that's kind of educated me somewhat about how we get</p> <p>5 to 1.7(a).</p> <p>6 Q. Okay. Were you aware or are you aware of the</p> <p>7 London arbitration where there was a dispute as to the</p> <p>8 ownership of the Caballo Maya by Oceanografia and SGM</p> <p>9 as buyers on one hand and Marfield on the other hand?</p> <p>10 A. I'm aware that an arbitration existed, and it</p> <p>11 may still be going on, but I don't know the details of</p> <p>12 the arbitration.</p> <p>13 Q. Were you aware of that when you wrote your</p> <p>14 report?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And have you reviewed the final -- the</p> <p>17 partial final award in that arbitration proceeding?</p> <p>18 A. I have not. If it's not listed in 1.6 or the</p> <p>19 documents that we've talked about this morning, then I</p> <p>20 haven't seen it.</p> <p>21 Q. Okay. Were you aware that Marfield was</p> <p>22 determined to be the owner of the Caballo Maya?</p> <p>23 A. No. I have seen information that the</p> <p>24 arbitrators ruled that to be the case, so I'm aware to</p> <p>25 that extent.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Q. Moving on to (b).</p> <p>2 A. Yes, sir.</p> <p>3 Q. In making the assumption in (b), were you</p> <p>4 aware that SGM voluntarily applied to be the</p> <p>5 depository?</p> <p>6 A. I believe I did see a document where it</p> <p>7 requested to be the bailee. When you say "deposit,"</p> <p>8 "depositorio," D-E-P-O-S-I-T-O-R-I-O, or "deposito" in</p> <p>9 Spanish, I believe the correct legal translation is</p> <p>10 "bailment" and "bailee."</p> <p>11 Q. Okay. I'm not saying that I disagree with</p> <p>12 you, because certainly I'm not an expert in</p> <p>13 translation --</p> <p>14 A. Sure.</p> <p>15 Q. -- but maybe -- and maybe that's a question I</p> <p>16 should ask you.</p> <p>17 Do you have any particular training or</p> <p>18 expertise in translating Spanish to English?</p> <p>19 A. Yes. I've been doing it for 21 years. I've</p> <p>20 been reading, translating lengthy, complex Mexican</p> <p>21 legal documents for all that time.</p> <p>22 Q. Are you a certified translator?</p> <p>23 A. I'm not certified as a translator.</p> <p>24 Q. In this case, in Plaintiff's petition, in all</p> <p>25 the documents, I think we've been referring to SGM as</p>	<p style="text-align: right;">Page 35</p> <p>1 a depository situation.</p> <p>2 A. Okay.</p> <p>3 Q. So that's how I'm going to proceed.</p> <p>4 A. Sure.</p> <p>5 Q. If you believe the correct term would be</p> <p>6 bailee, understood. And I'm not trying to twist your</p> <p>7 words --</p> <p>8 A. Okay.</p> <p>9 Q. -- in any way.</p> <p>10 A. That's very fair. Thank you for letting me</p> <p>11 know.</p> <p>12 Q. Who normally acts as a depository in</p> <p>13 situations where an asset is arrested in Mexico?</p> <p>14 A. In Mexico, there's an agency -- its acronym</p> <p>15 is the SAE -- and in situations where, under Mexican</p> <p>16 criminal law, the government confiscates assets</p> <p>17 because they believe them to have been involved in a</p> <p>18 criminal matter or in a crime, the government will</p> <p>19 attach the property and then deposit it, to use that</p> <p>20 term, with this agency that is in charge, as a general</p> <p>21 rule, for possessing, maintaining and then delivering,</p> <p>22 at the end, the property as determined by a court or</p> <p>23 by the Mexican government.</p> <p>24 Q. Okay. At the time that SGM was requesting to</p> <p>25 be made the depository, were you aware that it was</p>
<p style="text-align: right;">Page 36</p> <p>1 claiming to own the Caballo Maya?</p> <p>2 A. Yes.</p> <p>3 Q. And did you know that at that time, JRB was</p> <p>4 claiming to be the charter by virtue of a bareboat</p> <p>5 charter with SGM?</p> <p>6 A. I don't recall reading that, so I guess, as I</p> <p>7 sit here today, I was not aware of that particular</p> <p>8 fact.</p> <p>9 Q. Would that change your analysis in any way?</p> <p>10 A. No.</p> <p>11 Q. Okay. One of the assumptions that you make</p> <p>12 throughout the report is that JRB, at all times, was</p> <p>13 acting as SGM's agent; is that correct?</p> <p>14 A. I do see JRB acting as an agent. And based</p> <p>15 on the information that you see in 1.7(d), to me, that</p> <p>16 is in the nature of an agency relationship under</p> <p>17 Mexican law.</p> <p>18 Q. So I just want to make -- because that's --</p> <p>19 it's not in the list of assumptions here, but I</p> <p>20 believe it's in Section 4.3 where you discuss your</p> <p>21 opinion that JRB is or was acting as SGM's agent, so I</p> <p>22 want to make sure that we include that as an</p> <p>23 assumption you are making in this report; is that</p> <p>24 fair?</p> <p>25 A. I don't know if it's an assumption as much as</p>	<p style="text-align: right;">Page 37</p> <p>1 a legal conclusion.</p> <p>2 Q. Okay. It's a fact that is -- it is a fact</p> <p>3 contained within your report that you believe SGM --</p> <p>4 sorry. Strike that. Strike that whole thing.</p> <p>5 A. Okay.</p> <p>6 Q. Very poorly done.</p> <p>7 A. No problem. It's Monday morning.</p> <p>8 Q. I think that we are -- I think that we are</p> <p>9 agreed and we understand each other that in your</p> <p>10 report, your report contains the conclusion -- your</p> <p>11 conclusion that at all relevant times, JRB was acting</p> <p>12 as SGM's agent; correct?</p> <p>13 A. Correct.</p> <p>14 Q. And I believe what you say specifically in</p> <p>15 4.3 is that SGM designated JRB to perform the actions</p> <p>16 set forth in the order designating SGM as a</p> <p>17 depository; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And so if SGM is delegating the authority</p> <p>20 conveyed by that order, the order designating SGM as</p> <p>21 the depository, and JRB is carrying out those actions</p> <p>22 as its agent, JRB's rights, obligations, authorization</p> <p>23 in performing those actions are subject to that same</p> <p>24 order; correct?</p> <p>25 A. I think the way I view it, Mr. Soto, is that</p>

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<p style="text-align: right;">Page 38</p> <p>1 the order creates the initial relationship between SGM 2 and the vessel, which is a bailment relationship, and 3 the order also creates the obligation to maintain the 4 vessel in good condition.</p> <p>5 The step after that, then, is, I believe, an 6 agency relationship between SGM and JRB, but I don't 7 necessarily think that that agency relationship is 8 premised on the order. It's affected by the order.</p> <p>9 Q. And I am not -- I am not asking you whether 10 or not the order created the agency relationship.</p> <p>11 A. Okay.</p> <p>12 Q. It's more along the lines of I want to find 13 out your opinions, conclusions with respect to how the 14 order affects that agency relationship, and 15 specifically the rights, obligations and limitations 16 that are going to be imposed on JRB by virtue of that 17 order. Okay?</p> <p>18 A. Thank you.</p> <p>19 Q. And so, for instance, if the order prohibits 20 SGM from taking the Caballo Maya out of national 21 waters, would JRB, acting as its agent, be delegated 22 the obligations from SGM, would it also be limited by 23 the order stating not to take the Caballo Maya out of 24 national waters?</p> <p>25 A. It's a good question. I think it's a little</p>	<p style="text-align: right;">Page 39</p> <p>1 complicated under Mexican law for this reason: 2 Mexican law contemplates that an agent is only going 3 to be able to do as much as its principal can do, as a 4 general matter. But Mexican law also contemplates 5 that sometimes agents do things beyond the scope of 6 the agency or beyond the limitations that the 7 principal has, but that those actions by the agent, 8 let's say, that initially are beyond the agency are 9 subject to ratification by the principal, and so we 10 would look to the order and its limitations imposed on 11 the principal, clearly.</p> <p>12 Your question to me is whether they 13 necessarily control the agent, and I would say, in the 14 first instance, yes. But not necessarily in all 15 regards.</p> <p>16 Q. Well, let me -- let's try to unpack that, 17 then.</p> <p>18 A. Sure.</p> <p>19 Q. We are agreed that the only authority to act 20 that SGM has with respect to its position as a 21 depository derives from the order appointing it as a 22 depository?</p> <p>23 A. I agree with that.</p> <p>24 Q. And we agree that there are -- if there are 25 limitations in that order designating it as a</p>
<p style="text-align: right;">Page 40</p> <p>1 depository, then SGM is limited by those -- by that 2 order, by those limitations in that order?</p> <p>3 A. I agree with that.</p> <p>4 Q. Okay. And what you're telling me in your 5 report is that SGM then took its obligations under 6 that order and delegated those obligations to JRB; 7 correct?</p> <p>8 A. I don't want to use the word "delegate." 9 That may have particular implications. But based on 10 what we see in 1.7(d) where I'm told to assume that 11 SGM engaged JRB to contract and arrange for the 12 provision of services and supplies to maintain the 13 vessel on SGM's behalf, I view that as creating an 14 agency relationship -- here's what's not happening. 15 And maybe this is why I'm having trouble with the word 16 "delegate" in your question.</p> <p>17 A bailee like SGM, under Mexican law, has to 18 remain the bailee. It has to remain primarily 19 responsible for the preservation and protection of the 20 property that is in bailment. And technically, a 21 bailee can never really designate its obligations 22 without the permission of the bailor. However, a 23 bailee can have third parties do certain tasks in 24 fulfillment of the bailment.</p> <p>25 And so that's the only wrinkle that I'm</p>	<p style="text-align: right;">Page 41</p> <p>1 adding to your question.</p> <p>2 Q. Okay. Let me see if I can redo this, then. 3 We were agreed that SGM's authority derived 4 from the order appointing it as a depository; correct?</p> <p>5 A. Yes.</p> <p>6 Q. In engaging JRB to act as its agent with 7 respect to performing those functions in that order, 8 it could only authorize JRB to the extent that SGM is 9 authorized in that order; is that correct?</p> <p>10 MR. RUFTY: Object to form.</p> <p>11 A. I agree with that.</p> <p>12 Q. (BY MR. SOTO) Now, you state in your report 13 there is no written agency agreement, correct, between 14 JRB and SGM?</p> <p>15 A. I do state that, and I -- as far as I know, 16 that's correct.</p> <p>17 Q. Okay. But in your opinion, that does not 18 prevent the creation of an agency relationship in 19 Mexico?</p> <p>20 A. As a matter of Mexican law, it does not.</p> <p>21 Q. Looking at 1.6(c) [sic], can you tell me what 22 is the basis for that assumption?</p> <p>23 A. 1.7(c) is based on a document dated July 3, 24 2015, issued by the PGR in Mexico, which I translate 25 as the attorney general of Mexico, that office. And</p>

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<p style="text-align: right;">Page 42</p> <p>1 that document, I believe, has on it Executive Order</p> <p>2 A/011/00. And I believe it's a two-page document, as</p> <p>3 I recall.</p> <p>4 Q. Is this the document?</p> <p>5 A. You have handed me a two-page document</p> <p>6 Bates-numbered Lopez_0430, 0431, and that is the</p> <p>7 document that I'm referring to as my -- the basis for</p> <p>8 the facts I recite in 1.7(c).</p> <p>9 Q. Okay. If you hand that back to me, I'll mark</p> <p>10 it as an exhibit.</p> <p>11 (Exhibit 3 marked/introduced.)</p> <p>12 MR. SOTO: And for the record, Alfred,</p> <p>13 what I want to do is -- some of these documents, where</p> <p>14 I have the Spanish version and the English version,</p> <p>15 I'm going to put the English version on top and the</p> <p>16 exhibit sticker on the English version; but they are</p> <p>17 both in Exhibit 3. The first two pages are the</p> <p>18 English translation, and then the Spanish translation</p> <p>19 is underneath that.</p> <p>20 Q. (BY MR. SOTO) And I want to talk about</p> <p>21 assumption (e) again very quickly.</p> <p>22 A. Yes, sir.</p> <p>23 Q. Now, did you state that you did review the</p> <p>24 invoices and prepared calculations totaling up to</p> <p>25 those invoices?</p>	<p style="text-align: right;">Page 43</p> <p>1 A. I did receive invoices. I believe I did my</p> <p>2 own calculation of the amounts relating to crew</p> <p>3 salaries and pilotage and other port services. I</p> <p>4 don't -- I'm not sure, as I sit here today, whether I</p> <p>5 did the calculation of the 17 million pesos or the</p> <p>6 exchange rate calculation to get to U.S. dollars that</p> <p>7 are in 1.7(e). Those numbers may have come from</p> <p>8 counsel.</p> <p>9 Q. Okay. There have been some documents that</p> <p>10 appeared to be wire transfers in this case.</p> <p>11 Have you done an analysis to compare the</p> <p>12 invoiced amounts with the wire transfer documents?</p> <p>13 A. I have not done that analysis. In connection</p> <p>14 with that, I did request from counsel to see some</p> <p>15 documentation that the amounts in the invoices were,</p> <p>16 in fact, paid by JRB. Because that's important to my</p> <p>17 analysis. I received some wire transfer</p> <p>18 documentation, and I was told by counsel that those</p> <p>19 wire transfers reflect payment of the invoices, and I</p> <p>20 have left it at that.</p> <p>21 Q. And were you told that all of the invoices</p> <p>22 had been paid by wire transfers?</p> <p>23 A. No. I was told that -- I don't remember if I</p> <p>24 was ever told that one way or the other. The</p> <p>25 impression I left with was that I wanted information</p>
<p style="text-align: right;">Page 44</p> <p>1 to confirm that these invoices that are referred to in</p> <p>2 1.7(e) had been paid by JRB. And when I was given</p> <p>3 wire transfer information and told that those wire</p> <p>4 transfer documents or pages confirmed payment by JRB,</p> <p>5 I left it at that.</p> <p>6 Q. So you have assumed that the invoices have</p> <p>7 all been paid?</p> <p>8 A. Have all been paid by JRB.</p> <p>9 Q. Okay. But you haven't done any independent</p> <p>10 work to verify that assumption?</p> <p>11 A. I have not done any independent work to</p> <p>12 verify the assumption.</p> <p>13 Q. And if that assumption turned out to be not</p> <p>14 true, would that change your analysis?</p> <p>15 A. It could, because it is material to my</p> <p>16 analysis that payment of those amounts was made, and</p> <p>17 it also is material to my analysis that it was -- they</p> <p>18 were made by JRB.</p> <p>19 Q. Okay. Now, how did that change your analysis</p> <p>20 if it turned out the invoices were not paid?</p> <p>21 MR. RUFTY: Object to form.</p> <p>22 A. Sure. And if -- if I -- if I assume that</p> <p>23 these invoices for the services and supplies to the</p> <p>24 vessel were incurred but never paid, there is a part</p> <p>25 of my affidavit where I talk about Mexican civil code</p>	<p style="text-align: right;">Page 45</p> <p>1 provisions relating to payment. Anybody with a legal</p> <p>2 interest in a matter has a right to make a payment.</p> <p>3 That does not require permission of the person who is</p> <p>4 obligated to make those payments. It does not require</p> <p>5 notice to the person obligated to make payments, what</p> <p>6 we would think of as a debtor.</p> <p>7 And that's important to my analysis in order</p> <p>8 to establish that JRB is a creditor. And that's the</p> <p>9 first step, in a maritime lien context, that you have</p> <p>10 to reach.</p> <p>11 Q. (BY MR. SOTO) If it turns out that JRB did</p> <p>12 not pay a particular invoice, does JRB -- is it true,</p> <p>13 then, that JRB would not have a maritime lien arising</p> <p>14 from that invoice that it did not pay?</p> <p>15 A. Based on the information that I know now and</p> <p>16 on the analysis that I've done so far, the answer to</p> <p>17 your question is, yes, that matters. In other words,</p> <p>18 if JRB contracted for a service but is not out of</p> <p>19 pocket the amount for that service, then JRB has not</p> <p>20 reached the status of a creditor as to that particular</p> <p>21 invoice or service.</p> <p>22 Q. Is the term "lien," as we are using the</p> <p>23 term -- as -- do you understand what a maritime lien</p> <p>24 is with respect to U.S. law?</p> <p>25 A. Not really. I -- I have a sense that it's</p>

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<p style="text-align: right;">Page 46</p> <p>1 more than the maritime privilege under Mexican law.</p> <p>2 Q. And that's where I'm sort of getting at,</p> <p>3 because we're -- we're going to dive into some of this</p> <p>4 stuff, and there is a difference in language, and I</p> <p>5 want to -- I want to ask you if -- if that difference</p> <p>6 in language matters, if we're talking about the same</p> <p>7 thing with respect to maritime privilege versus a</p> <p>8 maritime lien?</p> <p>9 A. Sure.</p> <p>10 Q. So is there a difference between a maritime</p> <p>11 lien, as that's understood in U.S. law, and the</p> <p>12 maritime privilege, as that's understood in Mexican</p> <p>13 law?</p> <p>14 A. Let me tell you what my very rudimentary</p> <p>15 understanding is with regard to U.S. maritime liens.</p> <p>16 I understand, as a general matter -- and</p> <p>17 again, I'm not a U.S. maritime lawyer, I don't</p> <p>18 practice in the field or work in it as you do,</p> <p>19 Mr. Soto. But my understanding is that U.S. law</p> <p>20 both -- maritime law both creates the ability to</p> <p>21 impose or apply or fix a lien, as well as the ability</p> <p>22 to enforce that lien against a vessel.</p> <p>23 That's my understanding. I may be wrong</p> <p>24 about it, but that's my impression, based on what I've</p> <p>25 read.</p>	<p style="text-align: right;">Page 47</p> <p>1 Mexican maritime law is different than that.</p> <p>2 You don't find, in the law of navigation and maritime</p> <p>3 commerce in Mexico, the creation or provision that</p> <p>4 allows somebody to create a lien associated with the</p> <p>5 vessel. What you have is a privilege, which is an</p> <p>6 additional way that a creditor can attempt to recover</p> <p>7 a debt.</p> <p>8 Q. Is a -- is a -- is a privilege -- let me back</p> <p>9 up.</p> <p>10 At issue in this dispute, then, is whether or</p> <p>11 not the Plaintiff has a privilege against the Caballo</p> <p>12 Maya? Is that how you would describe it?</p> <p>13 A. Well, based on the transcript of the October</p> <p>14 hearing with the judge, the judge is interested in</p> <p>15 knowing several things: one of the things is whether,</p> <p>16 under Mexican law, JRB had a maritime right. Let me</p> <p>17 just say that generally. Whether it was entitled to</p> <p>18 any special treatment under maritime law with regard</p> <p>19 to the vessel itself. And so as I view it -- maybe</p> <p>20 I'm getting away from your question. You might have</p> <p>21 to ask it again. I'm sorry.</p> <p>22 Well, why don't you ask your question again.</p> <p>23 I'm sorry.</p> <p>24 Q. Sure. Sure.</p> <p>25 I just want to make sure, again, that we're</p>
<p style="text-align: right;">Page 48</p> <p>1 speaking in the certain terms, of the same term --</p> <p>2 A. Okay.</p> <p>3 Q. -- because we have been in this lawsuit,</p> <p>4 Plaintiff's complaint, discussing whether or not</p> <p>5 Plaintiff has a valid lien -- maritime lien in Mexican</p> <p>6 law, and so I want to be fair to you, and I want to</p> <p>7 make --</p> <p>8 A. Sure.</p> <p>9 Q. -- sure I'm not putting words in your mouth</p> <p>10 if you don't believe that "lien" is the correct term,</p> <p>11 or do you think that we are all speaking about the</p> <p>12 same -- the same issue here, whether or not we're</p> <p>13 talking about the lien, as has been talked about in</p> <p>14 this suit, or a privilege which is discussed in your</p> <p>15 report, are we talking about the same thing?</p> <p>16 A. Here's my answer to you: It is very</p> <p>17 important to my work, as a Mexican law expert, to help</p> <p>18 the court understand Mexican law and how it applies in</p> <p>19 a particular context. In order to do my job</p> <p>20 faithfully, I try to stick to the Mexican law as</p> <p>21 closely as possible. I don't inject interpretation, I</p> <p>22 don't interject liberal translation, because I don't</p> <p>23 think that's appropriate.</p> <p>24 The Mexican provision that is at the heart of</p> <p>25 this case, which is Article 91 of the maritime</p>	<p style="text-align: right;">Page 49</p> <p>1 commerce law, uses the word "privilege."</p> <p>2 And I was looking at Exhibit 2 in my</p> <p>3 affidavit -- you don't have the exhibits attached, but</p> <p>4 one of the exhibits is the Mexican law, and I wanted</p> <p>5 to refer you to Article 91 in particular. I want to</p> <p>6 maintain -- I want to be loyal to what the Mexican</p> <p>7 Congress adopted. They call it maritime privilege.</p> <p>8 Q. Is the maritime privilege an encumbrance on</p> <p>9 the vessel?</p> <p>10 A. In my view, no. That alone is not an</p> <p>11 encumbrance like a lien, as I would think of in the</p> <p>12 United States.</p> <p>13 Q. So the privilege is not --</p> <p>14 A. The privilege is a priority of payment.</p> <p>15 Q. Okay.</p> <p>16 A. And the ability to go after the vessel for</p> <p>17 that --</p> <p>18 Q. Okay. So --</p> <p>19 A. -- recovery.</p> <p>20 Q. -- the vessel is liable for the debt?</p> <p>21 A. Let me look at Article 91 just to be sure.</p> <p>22 Do you have -- can you give me a copy of that? And if</p> <p>23 not, I can get it.</p> <p>24 Oh, you're right, maybe it's quoted in here.</p> <p>25 Q. It's in your report. It's on page 7.</p>

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<p style="text-align: right;">Page 50</p> <p>1 A. Okay.</p> <p>2 MR. RUFTY: Off the record, while he's</p> <p>3 looking at that.</p> <p>4 A. Your question to me was whether Mexican law</p> <p>5 creates a lien imposed on the vessel?</p> <p>6 Q. (BY MR. SOTO) No. I'm trying to understand</p> <p>7 whether or not the incidence of a Mexico privilege --</p> <p>8 I'm trying to understand the similarities between a</p> <p>9 privilege and a lien so that I can be sure that we're</p> <p>10 talking about the same thing --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- and not something that completely -- just</p> <p>13 isn't apples to apples.</p> <p>14 A. Sure.</p> <p>15 Q. And so my question was: Is a privilege,</p> <p>16 which is created by a debt, I understand, and can be</p> <p>17 enforced through an arrest process in Mexico, is that</p> <p>18 an encumbrance that follows the vessel such that the</p> <p>19 vessel is liable for that obligation?</p> <p>20 A. The answer to your question is -- the short</p> <p>21 answer is yes, and here's why: According to Article</p> <p>22 91 of the maritime commerce law, we're dealing with</p> <p>23 what are called maritime privileges, not maritime</p> <p>24 liens.</p> <p>25 A maritime privilege is a right to be</p>	<p style="text-align: right;">Page 51</p> <p>1 preferred in payment ahead of other creditors. So</p> <p>2 there's a particular ordering in Article 91, depending</p> <p>3 on the nature of the obligation that's paid, whether</p> <p>4 it's crew salaries, portage fees, things like that.</p> <p>5 And then Mexican law refers to the privilege</p> <p>6 as applying to vessels. And that's in Article 93.</p> <p>7 So, yes, these portions of the maritime</p> <p>8 commerce law don't necessarily create a lien that</p> <p>9 encumbers the vessel, but they give a creditor, with</p> <p>10 regard to supplies and services on the vessel, an</p> <p>11 ability to recover its cost that does not exist for</p> <p>12 creditors in other situations.</p> <p>13 Q. The liability of the debt isn't against the</p> <p>14 owner; correct? Or not solely against the owner;</p> <p>15 correct?</p> <p>16 Let me elaborate just enough so you can sort</p> <p>17 of see where I'm going.</p> <p>18 An incident of a lien is that the lien itself</p> <p>19 is charged, it's an encumbrance on the vessel itself,</p> <p>20 so it doesn't matter who owns it. It doesn't matter</p> <p>21 if the vessel changes hands. The lien, the debt,</p> <p>22 encumbers the vessel, attaches to the vessel such that</p> <p>23 the holder of that lien can seek payment for that</p> <p>24 debt?</p> <p>25 A. As against the vessel.</p>
<p style="text-align: right;">Page 52</p> <p>1 Q. As against the vessel.</p> <p>2 A. Correct.</p> <p>3 Q. So my question to you is, whether or not that</p> <p>4 is similar in Mexican law, does the privilege follow</p> <p>5 the vessel? Does it encumber the vessel such that the</p> <p>6 holder of that privilege can seek it against the</p> <p>7 vessel, as opposed to just the owner so that it does</p> <p>8 not matter who owns the vessel?</p> <p>9 A. Yes.</p> <p>10 Q. Is the answer to that yes?</p> <p>11 A. Yes.</p> <p>12 Q. So it is similar in the nature of a lien in</p> <p>13 that it does encumber the vessel, and it follows the</p> <p>14 vessel wherever it goes?</p> <p>15 A. I'm having trouble with the very first part</p> <p>16 of your question, because we really haven't fleshed</p> <p>17 out what it means to be a lien.</p> <p>18 All I can tell you is this: That if you are</p> <p>19 a creditor with regard to a vessel, what Article 91</p> <p>20 does is that with -- particular to certain types of</p> <p>21 expenses that you have paid as the creditor, it gives</p> <p>22 you the right to collect as to the vessel beyond just</p> <p>23 the owner of the vessel.</p> <p>24 Q. Okay. I'm not sure that answers my question.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 53</p> <p>1 MR. SOTO: But why don't we go ahead and</p> <p>2 take a break.</p> <p>3 (Break.)</p> <p>4 Q. (BY MR. SOTO) Let's move on to Section 4.3 of</p> <p>5 your report.</p> <p>6 A. Okay.</p> <p>7 Q. You state in Section 4.3 that the basis for</p> <p>8 SGM's status as depository, as the bailee, is the</p> <p>9 order from the Mexican attorney general's office;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And I think we've already talked about this,</p> <p>13 but we would agree that the -- SGM's rights and</p> <p>14 obligations, its authority with respect to acting as</p> <p>15 the depository or bailee, is governed by or set forth</p> <p>16 by the attorney general's orders?</p> <p>17 A. Are the attorney general's orders -- so by</p> <p>18 that, do you mean Exhibit No. 3 as well as the</p> <p>19 delivery certificate?</p> <p>20 Q. Well, let's go one by one, then.</p> <p>21 A. Okay.</p> <p>22 (Exhibit 4 marked/introduced.)</p> <p>23 Q. (BY MR. SOTO) In fact, I'm going to hand you</p> <p>24 what I'll mark as Exhibit 4. And again, just like</p> <p>25 before, Exhibit 4 is going to have the English</p>

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<p style="text-align: right;">Page 54</p> <p>1 translation on top and then the original Spanish 2 version of the document behind it. 3 Now, this is not a document that you've 4 reviewed before, is it? 5 A. That's correct. I have not reviewed Exhibit 6 4 before today. 7 Q. Well, I will represent to you that if you were 8 to compare the resolutions in Exhibit No. 3, which you 9 have reviewed, and you were to compare the resolutions 10 in this Exhibit No. 4, you will see that I believe 11 they are the same. So my understanding is that this 12 is the sort of longer sort of complete version of that 13 order where it has recitations explaining sort of the 14 background of the case and then the resolutions behind 15 it. 16 A. It might be, but it might not be. And here's 17 the reason: When you handed me Exhibit No. 4, the 18 first thing I see is that it relates to an Amparo 19 proceeding. In Mexico, Amparo is a very unique 20 procedural device that they have in their federal 21 system that allows for parties or individuals to bring 22 constitutional challenges to acts of a government 23 agent, sometimes including courts. And so this may be 24 the decision of or relate to an Amparo case. 25 And then I also notice that it's dated,</p>	<p style="text-align: right;">Page 55</p> <p>1 according to the file stamp, May 12, 2016. So maybe 2 that's just the date on which it was filed by the 3 attorney general's office in an Amparo case. That's 4 somewhat confusing to me, so I'd want to know about 5 that. 6 It could be that you're correct that it 7 flushes out some of the obligations under the July 3, 8 2015, two-page official letter to Mr. Oscar Garcia. I 9 just don't know. 10 Q. Well, if we start on page Bates number 11 Caballo Maya 62 -- 12 A. Okay. 13 Q. -- and then go through the end of the 14 document, which is Caballo Maya 75 -- 15 A. Okay. 16 Q. -- it appears to me that there are -- it is a 17 document from the PGR, the Mexican Attorney General's 18 Office, with factual recitations about the dispute and 19 then resolutions related to the appointment of SGM as 20 a depository; agreed? 21 A. It appears that page 1 is a cover page for 22 filing a document in an Amparo case. And then what we 23 have beginning at the second page of the document, 24 which is Caballo Maya 62, continuing to Caballo Maya 25 75, appears to be an agreement that some parties</p>
<p style="text-align: right;">Page 56</p> <p>1 signed and that relates to the same criminal 2 investigation, as we see in the July 3, 2015, letter. 3 Q. Is this a document that was issued by the 4 Mexican Attorney General's Office? 5 A. As a matter of fact, I'm not sure, but it 6 appears that this is an agreement printed on PGR 7 letterhead, PGR being the Mexican Attorney General's 8 Office. 9 Q. And there are resolutions in here, in this 10 document. It begins on page Caballo Maya 74 from the 11 Mexican Attorney General's Office related to SGM's 12 position as depository. 13 Do you see that? 14 MR. RUFTY: Where are you, Counsel? 15 MR. SOTO: It's on page Caballo Maya 74. 16 A. According to -- I'm looking at Caballo Maya 17 74, and this is a section that is basically a 18 conclusion section that identifies certain matters, 19 such as the designation of Mr. Garcia as the bailee of 20 Caballo Maya. 21 And so is that consistent with what you're 22 saying? I think we're on the same page. 23 Q. (BY MR. SOTO) I don't know if we are or not, 24 truthfully, anymore. 25 A. Go ahead.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. My question to you is whether or not this 2 document, beginning on page Caballo Maya 74, contains 3 resolutions from the Mexican Attorney General's Office 4 related to SGM's status of a depository of the Caballo 5 Maya? 6 MR. RUFTY: Object to form. 7 A. What I can say is that this document appears 8 to relate to the bailment of the Caballo Maya with 9 Mr. Garcia, and it may relate to the conditions under 10 which the bailment is to occur. 11 Q. (BY MR. SOTO) Does this document set forth 12 the conditions by which the bailment is to occur? 13 A. I don't know. I just got it. 14 Q. Because you haven't reviewed it before? 15 A. I have not seen Exhibit No. 3 [sic] before. 16 Q. If it turns out -- 17 A. Exhibit No. 4, I'm sorry. 18 Q. Sure. 19 If it turns out that Exhibit No. 4 -- which I 20 will tell you has been stipulated as to the 21 authenticity of the parties previously. 22 A. Yes. 23 Q. If it turns out that Exhibit No. 4 is a 24 document which is issued by the PGR, the Mexican 25 Attorney General's Office, concerning the Caballo</p>

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<p style="text-align: right;">Page 58</p> <p>1 Maya, would you agree that it sets forth the 2 conditions of the bailment or the depository? 3 A. All I can tell you now is that it might. I 4 haven't reviewed it, so I don't know if it does or 5 not. 6 Q. Do you want to take a minute to review it? 7 MR. RUFTY: Do you mean -- "sets forth 8 the conditions," do you mean copies, conditions from 9 the bailment agreement, or what do you mean by "sets 10 forth"? 11 MR. SOTO: No. What I'm trying to get, 12 Counsel, is this an agreement that this is the -- this 13 is the full order from the Mexican Attorney General's 14 Office -- it's the full order that was excerpted in 15 the document that was produced by Plaintiff that sets 16 forth the terms of the depository -- 17 A. Let me answer your question. 18 MR. SOTO: -- designation? 19 A. Let me answer -- 20 MR. SOTO: If we can't agree to that, 21 then that's fine, then we'll move on. But I thought 22 that was a simple known fact. 23 A. What the parties have agreed to is something 24 that I don't know about, number one. 25 Number two, when I testify under oath, I have</p>	<p style="text-align: right;">Page 59</p> <p>1 to be very careful in what I tell you. And so -- 2 Q. (BY MR. SOTO) I understand all that. 3 A. -- you're asking me whether a document that 4 you just handed to me is or is not something. And 5 what I'm telling you very fairly, Mr. Soto, is, there 6 are indicia that what you're saying is correct, but 7 until I review the document and have time to review 8 it, I can't testify under oath that what you're saying 9 is correct. 10 Q. So the reason you can't testify under oath 11 today is because you haven't had an opportunity to 12 review this document? 13 A. Correct. 14 Q. Because it was not provided to you? 15 A. Not until today. 16 Q. If you look at page Caballo Maya 74 under 17 resolution [sic]. 18 A. Okay. 19 Q. I'm going to read that. It says: "RESOLVED. 20 FIRST. The depository of the CABALLO MAYA ship, with 21 the IMO 9453341, Ship's Regulatory Patent number 22 000081740, is the citizen Oscar Israel Garcia Cordova, 23 Legal Representative of 'Shipping Group Mexico Sgm 24 S.A. de C.V.', under the terms of Article 182-L, who 25 from this moment will be in this possession of the</p>
<p style="text-align: right;">Page 60</p> <p>1 ship, provided that this doesn't affect the public 2 order, with the condition that he may not alienate or 3 encumber, and must maintain the aforementioned ship in 4 good conditions until the time in which the legal 5 destination of the seized asset is determined." 6 Isn't it true that as a condition of SGM 7 acting as the depository or the bailee of the Caballo 8 Maya, SGM was prohibited from alienating or 9 encumbering the vessel? 10 A. Whether that's true or not is a fact, and I'm 11 not a fact witness. I can tell you what the document 12 says, if that's your question. 13 Q. Is that what the document says? 14 A. What the document says is that Mr. Oscar 15 Garcia is designated as bailee of the vessel, the 16 Caballo Maya that's at issue here, and it says he 17 shall, from this moment, be in possession of the 18 vessel, as long as it does not affect the public 19 order, for it to remain in his possession with the 20 condition -- in my exhibit -- and I'm reading from the 21 Spanish. I don't rely on other people's translations. 22 Can you tell me what this word is, 23 "condicionantes"? 24 Q. Mr. Lopez, I cannot, and I'm going to ask you 25 to rely on the English version --</p>	<p style="text-align: right;">Page 61</p> <p>1 A. I won't. 2 Q. -- because it's a certified translator. 3 A. I won't. It's already an erroneous 4 translation. I can tell you that, just by looking at 5 the first line. 6 Q. I will tell you that the same provision has 7 been translated through a certified translation by 8 Plaintiff's translator, and, in fact, we're using the 9 same translator -- 10 A. Okay. 11 Q. -- and it's been translated the same way. 12 A. Whether they're working for you or the 13 Plaintiff, it's still not right. 14 Q. We're going to have to -- the Court can't 15 read Spanish, and with all -- I don't think we have 16 time here for you to translate the Spanish document 17 for us. 18 MR. RUFTY: Well, I think we have time 19 to address what the witness regards as a proper 20 translation of the sentence or so that -- 21 Q. (BY MR. SOTO) What's improper? 22 A. Sure. The translator, who may be a fine 23 translator, and certified, starts by saying: "The 24 depository of the Caballo Maya ship...is the citizen 25 Oscar Israel Garcia Cordova..."</p>

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<p style="text-align: right;">Page 62</p> <p>1 What this says is that Oscar Cordova is</p> <p>2 hereby designated or is designated as bailee of the</p> <p>3 vessel. So in those two sentences, it's not correct.</p> <p>4 But in order to interpret correctly or</p> <p>5 translate correctly the provision that you're</p> <p>6 concerned about in your question, which relates to the</p> <p>7 alienation or encumbering, it's -- it's difficult for</p> <p>8 me to do that, because the words in the Spanish</p> <p>9 version are obscured by a stamp. And in Mexico, they</p> <p>10 do this all the time in legal documents,</p> <p>11 unfortunately.</p> <p>12 But ask your question again, and then I'll</p> <p>13 just assume what the word says. I think it says</p> <p>14 condicionante, C-O-N-D-I-C-I-O-I-N-A-N-T-E.</p> <p>15 Q. Have you seen this provision before, this</p> <p>16 language?</p> <p>17 A. Not that I recall, no.</p> <p>18 Q. It's not in the order that's been marked as</p> <p>19 Exhibit No. 3?</p> <p>20 A. It may be.</p> <p>21 Q. So can you tell me what that says?</p> <p>22 A. Sure. Okay. I believe it is. You're</p> <p>23 exactly right. We can see it clearly in</p> <p>24 Exhibit No. 3, even though it's obscured in Exhibit</p> <p>25 No. 4. And the phrase that relates to your question</p>	<p style="text-align: right;">Page 63</p> <p>1 is, as translated by me, with the condition that he</p> <p>2 cannot alienate or encumber and shall maintain the</p> <p>3 vessel in good condition.</p> <p>4 Q. Okay.</p> <p>5 A. The indicated vessel.</p> <p>6 Q. So you have assumed that Exhibit No. 3, which</p> <p>7 is a document you have previously reviewed --</p> <p>8 A. Uh-huh.</p> <p>9 Q. -- is accurate and that Exhibit No. 3 sets</p> <p>10 forth the rights, obligations and the authority of SGM</p> <p>11 as acting as a depository or bailee of the Caballo</p> <p>12 Maja; correct?</p> <p>13 A. I received the document that's Exhibit No. 3,</p> <p>14 and I used that document to inform me about what the</p> <p>15 obligations of the bailee were with regard to the</p> <p>16 bailment.</p> <p>17 Q. You will agree that Exhibit No. 3 sets forth</p> <p>18 the conditions of that designation of depository/</p> <p>19 bailee?</p> <p>20 A. I assume that it does that, yes.</p> <p>21 Q. And Exhibit No. 3, like Exhibit No. 4, states</p> <p>22 that SGM cannot encumber the vessel; correct?</p> <p>23 A. It says that he may not encumber the vessel.</p> <p>24 Q. Okay.</p> <p>25 A. And technically, it says they cannot alienate</p>
<p style="text-align: right;">Page 64</p> <p>1 or encumber.</p> <p>2 Q. Is "they" referring to SGM, since the section</p> <p>3 is discussing Mr. Cordova as the representative of</p> <p>4 SGM?</p> <p>5 A. It could be. That would be my assumption,</p> <p>6 that the reference is to him as the legal</p> <p>7 representative of the company and the company.</p> <p>8 Q. So doesn't this -- doesn't Exhibit No. 3 and</p> <p>9 Exhibit No. 4, which has the same language, prohibit</p> <p>10 the creation of a lien or a privilege on the Caballo</p> <p>11 Maya by SGM?</p> <p>12 A. I'm not sure about that. That wasn't my read</p> <p>13 of it. Let's see. And again, I'm going to refer to</p> <p>14 the Spanish.</p> <p>15 Okay. Yeah, it clearly -- the way I read</p> <p>16 that language, he cannot alienate the vessel, so when</p> <p>17 he's acting as bailee, he can't alienate the vessel.</p> <p>18 And in his capacity as bailee, Mr. Garza and SGM</p> <p>19 cannot -- cannot encumber it. That's what I read that</p> <p>20 to say, Exhibit No. 3. And the language is the same</p> <p>21 in Exhibit No. 4.</p> <p>22 Q. So they cannot cause a lien or a privilege to</p> <p>23 attach to the vessel if they cannot encumber it;</p> <p>24 correct?</p> <p>25 A. Well, it says what it says, and I believe it</p>	<p style="text-align: right;">Page 65</p> <p>1 says with the condition that they cannot alienate or</p> <p>2 encumber the indicated vessel. That's what it says.</p> <p>3 Q. And I don't want to be nitpicky --</p> <p>4 A. Sure.</p> <p>5 Q. -- but this is an issue of Mexican law in</p> <p>6 translations here, and so I just want to make sure</p> <p>7 that we are agreed to my understanding that the plain</p> <p>8 reading of that language is that SGM and Mr. Cordova</p> <p>9 cannot cause a maritime lien or a privilege to attach</p> <p>10 to the Caballo Maya; is that correct?</p> <p>11 A. I'm just telling you what it says translated.</p> <p>12 It says with -- that he becomes the bailee for the</p> <p>13 Caballo Maya with the condition that they -- and I</p> <p>14 believe your assumption is correct, that's both</p> <p>15 Mr. Garcia and SGM -- cannot alienate or encumber the</p> <p>16 indicated vessel. That's what it says.</p> <p>17 Q. My question to you, Mr. Lopez --</p> <p>18 A. Yes.</p> <p>19 Q. -- is whether or not that means that SGM and</p> <p>20 Cordova were prohibited from allowing or causing a</p> <p>21 lien or privilege to encumber the Caballo Maya.</p> <p>22 A. I don't know is my answer to you today.</p> <p>23 Q. Okay. And what if -- if the PGR had said</p> <p>24 that the SGM and Cordova cannot encumber it and cannot</p> <p>25 seek any reimbursement for expenses, would that then</p>

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66 to 69

<p style="text-align: right;">Page 66</p> <p>1 provide you with enough information to decide whether 2 or not they could or could not cause a maritime lien 3 or privilege to attach to the vessel? 4 A. No. And here's why. The provision is 5 unclear in this sense: It's appointing Mr. Garza, on 6 behalf of SGM, as the bailee. Whether the provision 7 means that they cannot seek reimbursement from the 8 government of Mexico is one thing. Whether it means 9 they cannot, under any circumstance, attach a lien to 10 it or a -- or encumber it, I can't tell from document. 11 That's my problem. 12 Q. Well, all 3 or 4 says is that they can't 13 encumber the vessel; correct? 14 A. That's what it literally says, on the 15 condition that they cannot alienate or encumber the 16 indicated vessels. 17 Q. And as you sit here today, you cannot tell me 18 whether or not that means that SGM or Cordova was 19 prohibited from encumbering the Caballo Maya with a 20 maritime privilege or lien? 21 MR. RUFTY: Object to form. 22 A. There's two things that I can't tell you: I 23 can't tell you whether that extends to cost incurred 24 by the bailee to maintain the vessel. It could. But 25 I can't tell you whether or not that provision</p>	<p style="text-align: right;">Page 67</p> <p>1 continues to apply after the bailment ends. And 2 that's the situation we're in now. 3 As I understand it, the bailment ended in 4 2017. So it could be that this provision meant that 5 they could not alienate it or encumber it for the 6 duration of the bailment. 7 Let me give you an example. 8 I understand that at the same time Mr. Garza 9 and SGM received the bailment, they were also 10 attempting to obtain ownership of the vessel in the 11 Mexican courts; correct? 12 Q. I don't know off the top of my head. 13 A. Yeah. In other words, in 2015, when this 14 order issues that's Exhibit No. 3, they were also 15 working through the Mexican courts to try to establish 16 procession and ownership of the vessel. That's based 17 on what I think Mr. Garza says, as well as other 18 documents that I've seen. 19 Here's why that's important: Even though 20 they're acting as bailee for the duration of this 21 order, which ends in February, it may be that if the 22 Mexican courts determined that they were the owner of 23 the vessel, well, they certainly could alienate it 24 after that determination and the conclusion of the 25 bailment, regardless of what's written in here.</p>
<p style="text-align: right;">Page 68</p> <p>1 That's my point. 2 Q. Sure. 3 There's no question that -- 4 A. Right. 5 Q. -- if SGM has delivered the vessel, at that 6 point, the bailment, the depository's designation, 7 would terminate -- 8 A. That's right. 9 Q. -- because they would be delivered the 10 vessel. 11 A. That's my point. 12 Q. Certainly. 13 The question is, while they are acting as the 14 bailment before this designation -- bailee, while 15 they're acting as a depository, they are told that 16 they cannot encumber the vessel; correct? 17 A. Correct. 18 Q. So expenses that are incurred during this 19 time period cannot give rise to the encumbrance on the 20 vessel, by order of the Mexican Attorney General's 21 Office; correct? 22 MR. RUFTY: Object to form. 23 A. With this -- I think you and I are not 24 disagreeing. 25 What I'm saying is that according to what I</p>	<p style="text-align: right;">Page 69</p> <p>1 read in Exhibit 3 and 4, they accepted the bailment on 2 the condition that they would not alienate or encumber 3 the vessel while the bailment lasts. 4 This document doesn't tell us about their 5 ability to encumber or alienate it after the bailment 6 ends. It doesn't talk to that. 7 But there's another important point. Very 8 important. You and I were having a discussion before 9 our little break about the difference between a 10 privilege and a lien under Mexican law. 11 What -- the point here is that, in Mexico, 12 when you see the word "grabar," G-R-A-B-A-R, which is 13 translated as "to encumber," that may be talking about 14 something completely different from Article 91 of the 15 maritime commerce law, which gives them the right to a 16 maritime privilege. 17 And as I've just explained to you, it is in 18 rem, and I guess that's similar to the U.S. maritime 19 lien approach, but it's a privilege. The Mexicans 20 don't use the term "maritime lien." 21 Q. (BY MR. SOTO) On page 9 of your opinion -- 22 A. Sure. 23 Q. It's about halfway down. 24 A. Okay. 25 Q. It's under the paragraph that starts: "Under</p>

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<p style="text-align: right;">Page 70</p> <p>1 the Commercial Code..."</p> <p>2 Do you see that?</p> <p>3 A. Correct.</p> <p>4 Q. The next sentence says: "Absent a contract,</p> <p>5 compensation to the bailee shall be in accordance with</p> <p>6 the custom and usage of the place where the bailment</p> <p>7 is made."</p> <p>8 A. Right.</p> <p>9 Q. Do you see that?</p> <p>10 And you go on to discuss, then, the custom</p> <p>11 and usage of payment of the bailee.</p> <p>12 A. Uh-huh.</p> <p>13 Q. But I wanted to be clear that what you are</p> <p>14 saying in this report is that the following subjects</p> <p>15 apply absent a contract.</p> <p>16 So if there is a contract between the bailee</p> <p>17 that discusses the terms of that bailment, it is that</p> <p>18 contract that will govern; correct?</p> <p>19 MR. RUFTY: Object to form.</p> <p>20 A. Yes, I agree with that statement.</p> <p>21 Q. (BY MR. SOTO) Okay. And I did not see any</p> <p>22 contract related to the bailment in the list of the</p> <p>23 materials that you reviewed, so I assume you were not</p> <p>24 provided with one; correct?</p> <p>25 A. I was not provided with one.</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. But you were provided with I believe</p> <p>2 you referred to it as a certificate of delivery. I</p> <p>3 have a copy of it with me.</p> <p>4 MR. SOTO: And again, for purposes of</p> <p>5 the record, I'm going to put the English translation</p> <p>6 on top and the Spanish right behind it.</p> <p>7 THE WITNESS: Sure.</p> <p>8 (Exhibit 5 marked/introduced.)</p> <p>9 MR. SOTO: I'll go ahead and mark this</p> <p>10 as Exhibit No. 5.</p> <p>11 Q. (BY MR. SOTO) Is this a document that you</p> <p>12 were provided -- I forget, yesterday or today?</p> <p>13 A. This morning.</p> <p>14 Q. This morning. Yes.</p> <p>15 Is this a document that you were provided</p> <p>16 with this morning?</p> <p>17 A. The Spanish-language version of Exhibit No. 5</p> <p>18 appears to be the document that I was provided this</p> <p>19 morning that I have been referring to as a certificate</p> <p>20 of deposit or a deposit certificate.</p> <p>21 Q. Okay.</p> <p>22 A. It could also be interpreted bailee, bailment</p> <p>23 certificate.</p> <p>24 Q. Okay. And were you provided with the</p> <p>25 certified English translation as well?</p>
<p style="text-align: right;">Page 72</p> <p>1 A. No.</p> <p>2 Q. Do you want to take a moment to review it?</p> <p>3 A. The English?</p> <p>4 Q. Or the Spanish. Or do you need a moment to</p> <p>5 review it before we get into the line of questioning?</p> <p>6 A. To the extent -- I mean, I've reviewed the</p> <p>7 Spanish. I don't rely on the English translations.</p> <p>8 Q. Okay.</p> <p>9 A. And to the extent that I did review it, I'm</p> <p>10 able to answer your questions now.</p> <p>11 Q. Okay. This, what we're calling a certificate</p> <p>12 of delivery, it appears to me that it is an agreement</p> <p>13 by which -- well, it's an agreement that's signed by</p> <p>14 Mr. Cordova as a representative of SGM, is it not?</p> <p>15 A. At Caballo Maya 80, I do see a signature line</p> <p>16 for Mr. Garcia and a signature on that line, and I</p> <p>17 assume it's his.</p> <p>18 Q. And it was also signed by an agent for the</p> <p>19 PGR, correct, in the Mexican Attorney General's</p> <p>20 Office?</p> <p>21 A. Correct.</p> <p>22 Q. So this appears to me to be an agreement by</p> <p>23 which SGM is accepting the delivery of the Caballo</p> <p>24 Maya to act as a depository, or the bailee, and the</p> <p>25 conditions of that?</p>	<p style="text-align: right;">Page 73</p> <p>1 A. I think that's a fair characterization of</p> <p>2 Exhibit No. 5.</p> <p>3 Q. And if we go to Caballo Maya page 77.</p> <p>4 A. Okay.</p> <p>5 Q. Page 77 contains some of the recitals in the</p> <p>6 agreement.</p> <p>7 If you go down to number 7.</p> <p>8 A. Yes.</p> <p>9 Q. And about two-thirds of the way down, it</p> <p>10 says: "The ship will be in his possession from this</p> <p>11 moment, provided that the possession doesn't affect</p> <p>12 the public order or interest, with the condition that</p> <p>13 he may not alienate or encumber it and must maintain</p> <p>14 the aforementioned ship in good physical conditions,</p> <p>15 until the legal destination of the seized asset is</p> <p>16 decreed."</p> <p>17 Do you see that?</p> <p>18 A. I do see that.</p> <p>19 Q. And I believe that's the same language that</p> <p>20 we saw before.</p> <p>21 Do you have any issues with the translation?</p> <p>22 A. It's slightly different.</p> <p>23 Q. Okay. Do you have any problems with the</p> <p>24 translation as I just read it?</p> <p>25 A. The translation is loosely correct but not</p>

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74 to 77

<p style="text-align: right;">Page 74</p> <p>1 technically correct.</p> <p>2 Q. Okay. Is the translation where it speaks</p> <p>3 about SGM not being prohibited from alienating or</p> <p>4 encumbering the vessel; is that correct?</p> <p>5 A. No, that's the part that's somewhat off,</p> <p>6 technically speaking.</p> <p>7 Q. Would you provide me what you believe is your</p> <p>8 direct translation of that sentence?</p> <p>9 A. Sure.</p> <p>10 Technically, it is not "with the condition</p> <p>11 that," but it is technically correct to translate it</p> <p>12 as "with the obligation that."</p> <p>13 Q. So it would read: "...the obligation that</p> <p>14 the possession doesn't affect the public order or</p> <p>15 interest, with the" -- oh, I'm sorry. I'm sorry.</p> <p>16 A. It comes a little further down.</p> <p>17 Q. So it is a sentence that you -- the</p> <p>18 translation you are correcting, in your opinion, would</p> <p>19 be: "...with the obligation that he may not alienate</p> <p>20 or encumber it and must maintain the aforementioned</p> <p>21 ship in good physical conditions, until the legal</p> <p>22 destination of the seized asset it's decreed"; is that</p> <p>23 correct?</p> <p>24 A. That's correct.</p> <p>25 And again, I'm not faulting the translator or</p>	<p style="text-align: right;">Page 75</p> <p>1 quibbling with the translator. "Condition" could be a</p> <p>2 legitimate translation of the word "obligation," but</p> <p>3 when I'm dealing with Mexican law in a U.S. court</p> <p>4 under oath, I try to stay as faithful to the wording</p> <p>5 of the Spanish as possible, within the context.</p> <p>6 Q. Turn over to page 79, Bates stamp Caballo</p> <p>7 Maya 79, in the same exhibit.</p> <p>8 A. Okay.</p> <p>9 Q. This is a portion of the -- of the agreement</p> <p>10 where we have some -- again, some more sort of -- a</p> <p>11 list, first, second, third, of agreed conditions or</p> <p>12 obligations.</p> <p>13 And if we look at what is a portion under the</p> <p>14 first such agreement on page 79, and it begins with --</p> <p>15 the paragraph begins with: "The citizen Oscar Israel</p> <p>16 Garcia Cordova..."</p> <p>17 Do you see that?</p> <p>18 A. Are you at the top of Caballo Maya 78?</p> <p>19 Q. I'm on 79, actually.</p> <p>20 A. On 79. I'm so sorry. Where on 79?</p> <p>21 Q. It's the paragraph that begins with: "The</p> <p>22 citizen..."</p> <p>23 A. Oh. Yes, I'm with you.</p> <p>24 Q. Okay. And if you read that -- that</p> <p>25 paragraph. It's a long way, the relevant part that I</p>
<p style="text-align: right;">Page 76</p> <p>1 want to talk about --</p> <p>2 A. Sure.</p> <p>3 Q. -- is about a third of the way down. After a</p> <p>4 semicolon, it states: "...he will be responsible for</p> <p>5 any expenses produced, and will give it the best</p> <p>6 maintenance possible, keeping it in good conditions,</p> <p>7 without requesting any sort of reimbursements for the</p> <p>8 deposit, he will be responsible for any damage or harm</p> <p>9 suffered by the seized asset due to his malice or</p> <p>10 negligence, and is required to provide a monthly</p> <p>11 report of the state of the ship and how it has been</p> <p>12 used."</p> <p>13 Do you see that section?</p> <p>14 A. Yes, I do see the Spanish version of what</p> <p>15 you're saying, and it's one, two, three, four, five,</p> <p>16 six, seven lines down.</p> <p>17 Q. Do you have any issue with that translation</p> <p>18 as I read it?</p> <p>19 A. Let me look at it. Just a couple of issues</p> <p>20 with the translation.</p> <p>21 Starting in the Spanish -- or, starting in</p> <p>22 the English, they have the sentence: "He will be</p> <p>23 responsible for any expenses produced..."</p> <p>24 And the word "responsible" is not in there in</p> <p>25 the Spanish. In the Spanish, it says that "He will</p>	<p style="text-align: right;">Page 77</p> <p>1 undertake the expenses," as I would relate it,</p> <p>2 "generated by the bailment. He will keep the</p> <p>3 vessel -- he will maintain the vessel in the best</p> <p>4 manner possible and preserve it or maintain it in good</p> <p>5 condition."</p> <p>6 And then the other place I quibble is with</p> <p>7 the next few words. The translator puts in English:</p> <p>8 "...without requesting any sort of reimbursements for</p> <p>9 the deposit..."</p> <p>10 And the way I would translate the Spanish</p> <p>11 phrase is, "...without requesting any refund for the</p> <p>12 bailment." "...without requesting any refund for the</p> <p>13 bailment."</p> <p>14 Q. I understand the language there that you're</p> <p>15 using is a little different than what the translator</p> <p>16 is using, but --</p> <p>17 A. Okay.</p> <p>18 Q. -- doesn't the meaning of it essentially</p> <p>19 amount to the same thing, that SGM is agreeing to be</p> <p>20 responsible for the cost of the bailment without a</p> <p>21 right to be reimbursed for those costs?</p> <p>22 A. No. Again, the word "responsible" is not in</p> <p>23 the Spanish.</p> <p>24 Q. SGM is agreeing to pay the cost of the</p> <p>25 bailment without a right to be reimbursed or refunded</p>

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<p style="text-align: right;">Page 78</p> <p>1 for those costs?</p> <p>2 A. It just says that he will carry out the</p> <p>3 expenses generated in connection with the bailment.</p> <p>4 Carry out. "Cargo," C-A-R-G-O, means to carry out.</p> <p>5 Q. What does the carry-out expenses mean?</p> <p>6 A. In other words, to perform, to make, to carry</p> <p>7 out, to execute.</p> <p>8 Q. You don't execute expenses, you --</p> <p>9 A. That's why translation is an art, it's not a</p> <p>10 science. In other words, I'm telling you what the</p> <p>11 Spanish version says literally. And I have to do</p> <p>12 that, because I want to remain careful with regard to</p> <p>13 the Spanish.</p> <p>14 The translator messed up, because what the</p> <p>15 translator has done is basically suggest that there's</p> <p>16 liability on the part of the person paying the</p> <p>17 expenses for the expenses. When you see the word</p> <p>18 "responsible," that's what the translator is</p> <p>19 translating. But the word "responsibility" in Spanish</p> <p>20 is more akin to liability, and that's not the word</p> <p>21 that they use in the Spanish.</p> <p>22 So responsibility for the expenses is not a</p> <p>23 correct translation.</p> <p>24 Q. Well, and, Mr. Lopez, I'm not -- I don't want</p> <p>25 to take your deposition as to --</p>	<p style="text-align: right;">Page 79</p> <p>1 A. Yeah.</p> <p>2 Q. -- a translator, that's not what you're here</p> <p>3 for.</p> <p>4 A. Okay.</p> <p>5 Q. I want to get your expert opinion as to what</p> <p>6 that means. Because when we're getting into literal</p> <p>7 translation of the document, "carrying out expenses"</p> <p>8 doesn't make any sense to me.</p> <p>9 So what I want to ask you, then, is, what is</p> <p>10 your opinion as to what that sentence means?</p> <p>11 A. What I understand that sentence to say is</p> <p>12 that the bailee -- in this case, SGM -- will carry out</p> <p>13 the expenses. And by that, I mean they will address</p> <p>14 the expenses to maintain the ship in good order.</p> <p>15 Which is a requirement of the bailment.</p> <p>16 Q. Does it address --</p> <p>17 MR. RUFTY: Let him finish, please.</p> <p>18 A. But that's different from what the translator</p> <p>19 said, which is that they're responsible for those</p> <p>20 expenses. That's the distinction I make.</p> <p>21 Q. (BY MR. SOTO) Forget what the translator</p> <p>22 says.</p> <p>23 A. Okay.</p> <p>24 Q. I don't want to -- I don't want to -- I think</p> <p>25 we're getting bogged down here comparing your</p>
<p style="text-align: right;">Page 80</p> <p>1 interpretation to hers.</p> <p>2 A. Okay.</p> <p>3 Q. Again, my question to you is: What does this</p> <p>4 sentence mean? Does this sentence mean that SGM will</p> <p>5 pay the expenses of the bailment without a right to be</p> <p>6 reimbursed or refunded?</p> <p>7 A. What this means is that the bailee will</p> <p>8 undertake the expenses, meaning take care of the</p> <p>9 expenses, in order to maintain the ship in good</p> <p>10 condition without requesting refund -- any refund for</p> <p>11 the bailment. That's what it says.</p> <p>12 Q. What does that mean?</p> <p>13 A. I'm not sure what it means.</p> <p>14 Q. As you sit here today, you don't know how --</p> <p>15 you do not have an opinion as to what that means?</p> <p>16 A. As I sit here today, I don't. For two</p> <p>17 reasons: First of all, I've only seen the document</p> <p>18 within the last couple hours, number one.</p> <p>19 But, number two, I'm not sure whether that</p> <p>20 provision means that the bailee is not going to seek a</p> <p>21 refund from the Mexican government for the expenses of</p> <p>22 the bailment, whether it means that the bailee will</p> <p>23 not seek a fee for the bailment, or whether, as you're</p> <p>24 suggesting, it means that they won't seek any refund</p> <p>25 whatsoever, ever, for the bailment. To me, that's</p>	<p style="text-align: right;">Page 81</p> <p>1 kind of a fact question that the parties need to</p> <p>2 testify about or provide evidence on and that the</p> <p>3 court needs to decide. To me, it's not clear from</p> <p>4 this language.</p> <p>5 Q. As you sit here today, you do not have an</p> <p>6 expert opinion as to what that sentence means?</p> <p>7 A. As to what the phrase "without requesting any</p> <p>8 refund for the bailment," I don't have any opinion</p> <p>9 today what that means.</p> <p>10 Q. Assume for me that JRB procured and/or paid</p> <p>11 for the services at issue in this lawsuit with the</p> <p>12 understanding that SGM would be the party reimbursing</p> <p>13 it for those expenses.</p> <p>14 Under that situation, would SGM be the</p> <p>15 debtor? The ultimate debtor, I think, is the phrase</p> <p>16 you use in your report.</p> <p>17 A. No. The debtor would be the vessel, or</p> <p>18 Marfield. The creditor -- it would be a creditor in</p> <p>19 that situation.</p> <p>20 Are you saying the debtor -- the debtor as</p> <p>21 between SGM and JRB?</p> <p>22 Q. No. No.</p> <p>23 A. I didn't think so.</p> <p>24 Q. I'm saying that if, when JRB procured the</p> <p>25 services at issue in this lawsuit and then paid for</p>

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<p style="text-align: right;">Page 82</p> <p>1 the services in this lawsuit, it did so with the</p> <p>2 understanding that SGM would be the party reimbursing</p> <p>3 it for those services.</p> <p>4 In that scenario, isn't SGM the debtor, the</p> <p>5 party responsible for those costs, since JRB procured</p> <p>6 them and paid for them with the understanding that it</p> <p>7 would be reimbursed from it?</p> <p>8 A. Okay. You're saying that the agreement in</p> <p>9 July 2015 between SGM and JRB was not only that JRB</p> <p>10 would act as its agent for SGM with regard to the</p> <p>11 vessel, but that SGM would be the one to whom JRB</p> <p>12 would look for reimbursement?</p> <p>13 Q. Correct.</p> <p>14 A. So you're asking me to assume that.</p> <p>15 Q. Yes.</p> <p>16 A. All right.</p> <p>17 Q. And in that situation, isn't SGM the debtor</p> <p>18 responsible for the -- those payments, those costs,</p> <p>19 those expenses?</p> <p>20 A. Yes, in the sense that a principal, under</p> <p>21 Mexican law, has a duty to reimburse an agent for</p> <p>22 appropriate expenses incurred by the agent in carrying</p> <p>23 out the agency.</p> <p>24 Q. Maybe we're talking past each other, and I</p> <p>25 want to --</p>	<p style="text-align: right;">Page 83</p> <p>1 A. Okay.</p> <p>2 Q. -- talk about an incident of maritime lien</p> <p>3 from the U.S., granted.</p> <p>4 A. Okay.</p> <p>5 Q. Is that a maritime lien cannot be -- will not</p> <p>6 arise against a vessel, it will not attach against a</p> <p>7 vessel if the parties who are creating the debt</p> <p>8 understand that the vessel is not going to be liable</p> <p>9 for that? So if you and I enter into an agreement</p> <p>10 where you're going to provide services to me and I</p> <p>11 tell you -- I may have a -- I may be chartering a</p> <p>12 vessel, I may be the owner of the vessel, but I want</p> <p>13 you to understand that I'm the -- this is me, it's</p> <p>14 against me personally.</p> <p>15 A. Not the vessel.</p> <p>16 Q. Not the vessel.</p> <p>17 A. Okay.</p> <p>18 Q. And the vessel is not liable. In the same</p> <p>19 sense that if you were to engage into a contract to</p> <p>20 provide services and you didn't know that the other</p> <p>21 party owned a vessel, you didn't know where those</p> <p>22 services were going, that debt wouldn't give rise to</p> <p>23 maritime lien, because you -- there was an</p> <p>24 understanding between the parties that the debt</p> <p>25 belonged to the contracting parties.</p>
<p style="text-align: right;">Page 84</p> <p>1 A. Understood.</p> <p>2 Q. Okay.</p> <p>3 MR. RUFTY: Object to form.</p> <p>4 Q. (BY MR. SOTO) So with that background --</p> <p>5 A. Okay.</p> <p>6 Q. -- I think, just to sort of clarify again, my</p> <p>7 question to you is, if JRB, when providing services</p> <p>8 and goods that are the subject of this lawsuit, if it</p> <p>9 did so with the understanding that SGM was going to be</p> <p>10 the party reimbursing it, is SGM then the party that</p> <p>11 is the debtor, not the Caballo Maya?</p> <p>12 MR. RUFTY: Object to form.</p> <p>13 A. In my view, as a matter of Mexican law, the</p> <p>14 answer to your question depends on whether that was</p> <p>15 the agreement. If you're telling me to assume that</p> <p>16 the agreement in July 2015 was that JRB would act as</p> <p>17 SGM's agent and the agreement further was that JRB was</p> <p>18 to look only to SGM for reimbursement of amounts</p> <p>19 incurred as the agent for SGM, if you're asking me to</p> <p>20 assume that, I'm not sure -- I guess what you're</p> <p>21 asking me to further tell you is what that means under</p> <p>22 Mexican law. Because I can't tell you what that means</p> <p>23 under U.S. law, that's not --</p> <p>24 Q. (BY MR. SOTO) I'm only asking you the</p> <p>25 question as to Mexican law.</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Okay.</p> <p>2 Q. And I'm not asking you to assume the -- an</p> <p>3 agency relationship, because that's a conclusion</p> <p>4 that's already in your report. I don't know.</p> <p>5 A. Sure.</p> <p>6 Q. What I will ask you to assume is this, this</p> <p>7 fact situation.</p> <p>8 A. Okay.</p> <p>9 Q. SGM is claiming to be the owner of this</p> <p>10 vessel. JRB is claiming to be a charterer of the</p> <p>11 vessel. SGM and JRB have an understanding that JRB is</p> <p>12 going to look to SGM for reimbursements for expenses</p> <p>13 paid.</p> <p>14 A. Okay.</p> <p>15 Q. In that situation, is the Caballo Maya liable</p> <p>16 for those expenses, or is SGM the sole debtor?</p> <p>17 MR. RUFTY: Object to form.</p> <p>18 A. Under Mexican law, if JRB is, in its own</p> <p>19 right, a creditor, it has the ability, under Article</p> <p>20 91 of the maritime commerce law, to seek recovery</p> <p>21 against the vessel in rem for expenses that are</p> <p>22 granted preference under Article 91. So that -- I</p> <p>23 don't think that this arrangement that you're talking</p> <p>24 about where there's an agreement that JRB would look</p> <p>25 only to SGM affects JRB's rights under Article 91. I</p>

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86 to 89

<p style="text-align: right;">Page 86</p> <p>1 don't know what it does with regard to U.S. law, but 2 under Mexican law, Article 91 doesn't make any 3 distinction in that situation. 4 Q. (BY MR. SOTO) Under Mexican law, can an owner 5 subrogate itself? If an owner arranges for services 6 that it wants provided to his own vessel and then pays 7 for their -- those services that he ordered, can he 8 then claim a maritime lien against his own ship if 9 that ship is sold to another party? 10 A. In your hypothetical, is the owner a creditor 11 with regard to the vessel? 12 Q. That's my question to you, sir. 13 If an owner engages a vendor to provide 14 services that the owner is ordering for his own vessel 15 and he pays for those services, and if that vessel 16 later on changes ownership to now a new owner, can the 17 owner go and claim a lien against that vessel for 18 subrogation saying that, "I paid for the services"? 19 A. Sure. 20 Q. Is the answer yes? 21 A. Here's the answer to your question: If, 22 under Mexican law, that owner in that very curious 23 situation is, as a matter of substantive law, a 24 creditor, what Article 91 says is that a creditor 25 can't -- has a maritime privilege. Assuming that</p>	<p style="text-align: right;">Page 87</p> <p>1 they're a creditor with regard to certain types of 2 expenses. 3 And so the answer would be yes, but only if, 4 under Mexican law, they are, in fact, a creditor. 5 Q. Well, how would they be a creditor under 6 Mexican -- 7 A. Well, that's what I'm telling you, if under 8 Mexican law. I don't know the answer to the question, 9 because I haven't looked at it. Your hypothetical is 10 not something that was presented to me before. And so 11 I can tell you what the formula is, but I can't tell 12 you whether, in fact, it applies to your situation. 13 Q. Well, what does it take to be a creditor 14 under Mexican law? 15 A. You can have an express debtor/creditor 16 relationship. You can have a situation where, by 17 virtue of operation of law, somebody becomes a 18 creditor, not an express contract. For example, an 19 unjust enrichment situation. 20 Those are a couple of the contexts that I can 21 think of where somebody becomes a creditor, where it's 22 either expressed or imposed by law. 23 Now, whether your owner situation, as to its 24 own vessel, satisfies those conditions, I just don't 25 know.</p>
<p style="text-align: right;">Page 88</p> <p>1 Q. Can a charterer who orders services for the 2 vessel that its chartering pay those services and then 3 later on claim a lien against the vessel that it's 4 chartering? 5 A. Is there any existing -- is there any express 6 agreement to the parties as to that? 7 Q. There's a charter agreement. 8 A. Okay. And the charter agreement provides 9 that that's the case? 10 Q. No. 11 A. Well, that's what I'm asking you. 12 Q. No, the charter is just -- the charter is -- 13 a charterer orders services for the vessel its 14 chartering -- 15 A. Sure. 16 Q. -- pays for the services and later on arrests 17 that vessel and claims, I paid for services for that 18 vessel, so I now have a maritime lien against that 19 vessel. 20 A. Again, you need to distinguish two different 21 things. Mexican maritime law, in the hypothetical 22 you're giving me, doesn't enter the picture until you 23 get to the second stage, the maritime privilege point. 24 What your question is focused on is in the 25 first stage, which is a general question of Mexican</p>	<p style="text-align: right;">Page 89</p> <p>1 substantive law. Whether, in the context, this 2 charterer who incurs expenses that benefit the vessel 3 is thereby creditor to the owner of the vessel. 4 Right? That's what you're asking me? 5 Q. That's not what I'm -- 6 A. Okay. 7 Q. I asked my question, and if the answer is, 8 you cannot tell me based on the facts that I provided 9 to you, that's fine. 10 A. I can't understand your question. You're 11 telling me a charterer of a vessel, pursuant to a 12 charter agreement, that doesn't talk about this 13 situation relating to expenses incurs expenses and 14 then attempts later to exercise a maritime lien 15 against the vessel for the expenses. 16 Q. That's not my question. 17 A. I'm so sorry. 18 Q. But let me ask a new question -- 19 A. Okay. 20 Q. -- okay? 21 SGM claimed to be the owner of the vessel at 22 the time that it was acting as depository; correct? 23 A. That's my understanding. 24 Q. And SGM also entered a into a bareboat 25 charter agreement with JRB at the time; correct?</p>

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<p style="text-align: right;">Page 90</p> <p>1 A. I don't know that. I'll assume that to be 2 the case.</p> <p>3 Q. Okay. You have a party who believes it's the 4 owner of the vessel and a party who believes it's the 5 charterer of the vessel generating expenses while the 6 vessel is in SGM's possession.</p> <p>7 A. Okay.</p> <p>8 Q. Can SGM now claim a maritime lien for 9 expenses that it had its agent incur for the benefit 10 of a vessel that it claimed to be -- that it claimed 11 ownership of during the time that it was in its 12 possession? Can it claim a maritime lien under 13 Mexican law?</p> <p>14 A. Right. And here are the facts that are 15 missing from your hypothetical in order for me to 16 answer it under Mexican law.</p> <p>17 The first thing I need to know is whether 18 there is an express agreement between the parties 19 concerning the point you're asking me about. In other 20 words, is there an express agreement that SGM will be 21 liable for the expenses incurred by the charterer? Is 22 there anything about that in the agreement between 23 them?</p> <p>24 Q. I can't answer that.</p> <p>25 A. Without that, I can't answer your question.</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. Well, I'm -- let's take the charter agreement 2 outside of the hypothetical; because, frankly, I'm not 3 trying for this to be a hypothetical. I don't know 4 why you don't have a copy of the charter agreement, 5 but let's just take that out, because you haven't 6 reviewed it. Okay?</p> <p>7 A. All right.</p> <p>8 Q. So I don't want this to be a hypothetical, I 9 want this to be based on the facts that we have now 10 and the documents in this case.</p> <p>11 A. All right. Tell me the specific facts.</p> <p>12 Q. We do know that SGM was claiming to be the 13 owner of the vessel; correct?</p> <p>14 A. I believe that's correct, yes.</p> <p>15 Q. And we do know that SGM requested to be 16 designated as the depository of the vessel, because it 17 owned it; correct?</p> <p>18 MR. RUFTY: Object to form.</p> <p>19 A. That second part of the question I'm not sure 20 about. All I know is, based on these documents, it 21 requested to be the bailee of the vessel and, in fact, 22 was designated bailee.</p> <p>23 Q. (BY MR. SOTO) And in its request to be 24 designated as the bailee, it stated that it owned the 25 vessel; correct?</p>
<p style="text-align: right;">Page 92</p> <p>1 A. I don't recall. It may.</p> <p>2 Q. Well, can we agree on that, or should I find 3 the document?</p> <p>4 MR. RUFTY: Let's find the document.</p> <p>5 A. In paragraph 1.7(b), I refer to a May 2015 6 request to be the bailee or to lift the attachment and 7 release it to SGM. So maybe that's the document we're 8 going to be in. I'll look at whatever you have. 9 (Exhibit 6 marked/introduced.)</p> <p>10 Q. (BY MR. SOTO) Let me hand you what's been 11 marked as Exhibit No. 6. This is a document that was 12 produced along with your report and is a document that 13 I believe you refer to in your report as the document 14 in which SGM is requesting to be designated as the 15 bailee.</p> <p>16 Do you recognize this document?</p> <p>17 A. In my affidavit, I referred to something 18 called the Request by the Shipping Group Mexico to the 19 Attorney General of Mexico for removal of attachment. 20 And that's dated May 29, 2015. This appears to be 21 that document.</p> <p>22 Q. Would you please turn to what's Bates-stamped 23 Lopez 0932.</p> <p>24 A. Yes, sir, I'm there.</p> <p>25 Q. And just to be clear, this was a Word</p>	<p style="text-align: right;">Page 93</p> <p>1 document that was produced to us, but I believe it was 2 represented to be a document that was issued by SGM. 3 Okay?</p> <p>4 A. Okay.</p> <p>5 Q. Is that your understanding as well?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And in this document that's authored 8 by Mr. Garcia, on page Lopez 932, there's a paragraph 9 that begins with: "These circumstances..."</p> <p>10 You see that?</p> <p>11 A. Again, I'm looking at the Spanish. Let me 12 find what you're after.</p> <p>13 It is the fourth full paragraph down on page 14 932. I'm with you.</p> <p>15 Q. And it says: "These circumstances are shown 16 in this case, by virtue that the vessel called 17 'Caballo Maya', Panamanian, is an asset that has been 18 largely [sic] used, and belongs to the company 19 'SHIPPING GROUP MEXICO SGM S.A. DE C.V.', previously 20 known as 'GGM Shipping S.A. DE C.V.', who acquired the 21 vessel through a purchase contract signed by MARFIELD 22 LTD INC and GGM SHIPPING S.A. DE C.V., through their 23 legal representatives, on October twentieth, two 24 thousand and eleven."</p> <p>25 So going back to my original question --</p>

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94 to 97

<p style="text-align: right;">Page 94</p> <p>1 A. Okay.</p> <p>2 Q. -- in terms of what we know in this case --</p> <p>3 so it's not a hypothetical -- we know that at the time</p> <p>4 that SGM was requesting to be designated as a</p> <p>5 depository, it was claiming ownership of the Caballo</p> <p>6 Maya.</p> <p>7 A. True.</p> <p>8 Q. Okay. So we have a party who claims</p> <p>9 ownership of the vessel, is asking to be made</p> <p>10 depository of the vessel and then has an agent who it</p> <p>11 is authorizing to go out and procure services and</p> <p>12 expenses for the benefit of that vessel that it claims</p> <p>13 to own?</p> <p>14 A. Correct --</p> <p>15 Q. In that situation --</p> <p>16 A. -- yes.</p> <p>17 Q. -- can the agent who is procuring these</p> <p>18 services with the understanding that the principal,</p> <p>19 SGM, is going to reimburse it for those services, can</p> <p>20 it claim a maritime lien against the vessel?</p> <p>21 A. I think the question answers itself. If your</p> <p>22 hypothetical, based on these facts -- and it may not</p> <p>23 be hypothetical, maybe it's factual -- is that there</p> <p>24 was an understanding that JRB would look only to SGM</p> <p>25 for reimbursement of the expenses incurred in</p>	<p style="text-align: right;">Page 95</p> <p>1 connection with the vessel, then it strikes me that</p> <p>2 that's the agreement, and that's what they've got to</p> <p>3 do.</p> <p>4 Q. Okay. And let's take the agreement out of</p> <p>5 the equation.</p> <p>6 Now we just have an owner or a claimed owner</p> <p>7 of the vessel --</p> <p>8 A. Sure.</p> <p>9 Q. -- asked to be appointed depository, isn't</p> <p>10 unilaterally appointed -- requests to be appointed</p> <p>11 depository.</p> <p>12 A. Correct.</p> <p>13 Q. As an agent that it engages to procure</p> <p>14 services for the benefit of the vessel that it claims</p> <p>15 to own, agent go head, does so, does that agent now</p> <p>16 have a lien against the vessel?</p> <p>17 A. To the extent the agent is, in its own right,</p> <p>18 a creditor, it does, under Mexican law.</p> <p>19 Q. In that situation, is the agent a creditor?</p> <p>20 A. Yes. In the situation as you've described it</p> <p>21 in this last question, it is a creditor.</p> <p>22 Q. Okay. Where that changes is if there was an</p> <p>23 understanding between the principal and the agent that</p> <p>24 the agent looked to the principal for payment?</p> <p>25 MR. RUFTY: Object to form.</p>
<p style="text-align: right;">Page 96</p> <p>1 A. I believe that's right, yes.</p> <p>2 MR. RUFTY: You mean only -- look only</p> <p>3 to, is that what you mean?</p> <p>4 MR. SOTO: I mean what I said.</p> <p>5 Q. (BY MR. SOTO) In your report, you refer to</p> <p>6 Marfield as the ultimate debtor.</p> <p>7 And I'll admit that I don't quite understand</p> <p>8 what you mean by that in the sense that Marfield was</p> <p>9 contesting ownership of the Caballo Maya against SGM;</p> <p>10 correct?</p> <p>11 A. During the 2015-2016 time period, my</p> <p>12 understanding is that Marfield was contending in the</p> <p>13 Mexican courts that it was the owner of the vessel.</p> <p>14 Q. And SGM was contending the opposite?</p> <p>15 A. Was contending that it was them, correct.</p> <p>16 Q. And SGM was requesting to be appointed the</p> <p>17 depository, and Marfield was opposing that request?</p> <p>18 A. The first part, I have clearly seen. The</p> <p>19 second part, I'm not sure I have seen.</p> <p>20 Q. Assume for me that Marfield was opposing</p> <p>21 SGM's request to be appointed as a depository.</p> <p>22 A. Okay. I'll assume that.</p> <p>23 Q. Okay. We have a situation, then, where SGM,</p> <p>24 through an agency relationship, asked its agent to</p> <p>25 procure services that Marfield does not want to</p>	<p style="text-align: right;">Page 97</p> <p>1 happen -- Marfield is against the -- the depository</p> <p>2 designation.</p> <p>3 How was Marfield the debtor for those</p> <p>4 services?</p> <p>5 A. Can you tell me where in my report I say</p> <p>6 "ultimate debtor"? I just need that context.</p> <p>7 Q. On page 9.</p> <p>8 A. Where on page 9?</p> <p>9 Q. It's the very last paragraph.</p> <p>10 A. Oh, okay.</p> <p>11 Okay. Right. And the wording there is very</p> <p>12 important. What I say is that under Mexican law,</p> <p>13 viewing Marfield as the ultimate, quote/unquote,</p> <p>14 "debtor" on the obligations paid by JRB, JRB had no</p> <p>15 duty to inform Marfield that it was making the</p> <p>16 payments.</p> <p>17 Here's what I'm saying there: To the extent</p> <p>18 Marfield, as the party that was determined by the</p> <p>19 Mexican courts to, in fact, own the vessel, or to be</p> <p>20 given ownership of the vessel -- assuming that's what</p> <p>21 happened. I really haven't looked at that. I'm</p> <p>22 taking your word for it. If Marfield contends at any</p> <p>23 point that it's not obligated to pay because it was</p> <p>24 not informed of the expenses in advance, before they</p> <p>25 were incurred, what my sentence on page 9 going onto</p>

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98 to 101

<p style="text-align: right;">Page 98</p> <p>1 page 10 says is that is a matter of Mexican law. 2 That's not the case. 3 Q. Marfield is contending it's not a debtor. 4 A. And I'm not contending that it is a debtor. 5 I'm saying if it's viewed as being a debtor. Okay? 6 Maybe it's not a debtor. 7 In any capacity, if Marfield objects to the 8 reimbursement of JRB on the grounds that it wasn't 9 informed of these expenses and payments in advance, 10 that's not required under Mexican law. It doesn't 11 defeat JRB's request for reimbursement. 12 Q. Are we talking about a hypothetical that may 13 not exist? Because is there anything in the materials 14 that you have reviewed and the information that's been 15 provided to you that leads you to reach the conclusion 16 that Marfield is a debtor in this situation? 17 A. Here's why I included the paragraph that 18 we're talking about on page 9. The preceding 19 paragraph is where I refer to Article 2062 of the 20 Mexican Federal Civil Code, which talks about payment. 21 And then there's payment in the prior discussion as 22 well. 23 It occurred to me that somebody may say, 24 "Okay, well, JRB paid, but I shouldn't have to 25 reimburse JRB or compensate JRB, because I was not</p>	<p style="text-align: right;">Page 99</p> <p>1 informed of the expenses in advance." 2 I thought that was a relevant point, and so 3 in my affidavit, I put that whether Marfield was 4 informed in advance is not relevant under Mexican law, 5 nor is it relevant under Mexican law whether JRB was 6 authorized by Marfield to make those expenses. That's 7 simply the point of those two paragraphs -- of that 8 paragraph. 9 MR. SOTO: I'm going to object as 10 nonresponsive. 11 A. Okay. 12 Q. (BY MR. SOTO) My question is whether or not 13 you are expressing an opinion or the conclusion that 14 Marfield was a debtor in this case. 15 A. I'm not. 16 Q. On page 7 of your report, you talk about the 17 statute of limitations for a Mexican maritime lien. 18 And that's one year, I believe; correct? 19 A. Article 93, as quoted on page 7 of my 20 affidavit, says that "Maritime privileges on vessels 21 shall be extinguished by the passage of one year from 22 the time they become enforceable, unless an action 23 directed at the attachment or detention of the vessel 24 has been exercised." 25 Q. When does a maritime lien, under Mexican law,</p>
<p style="text-align: right;">Page 100</p> <p>1 become enforceable? 2 A. When the status of creditor has been reached. 3 Q. Okay. And when did that happen in this case? 4 A. When JRB procured a service and paid for the 5 service. That's when it becomes a creditor of the 6 vessel. 7 Q. But the maritime lien -- didn't the 8 maritime -- you're talking about the maritime lien 9 being transferred from the -- from the vendor to JRB. 10 So if a vendor provides a service in 2015, 11 that vendor has the maritime lien against the Caballo 12 Maya vessel; isn't that correct? 13 A. When JRB contracts for the provision of, 14 let's say, a portage service, when the portage service 15 provider provides the service, they become a creditor 16 to JRB. 17 When JRB pays that service provider, it 18 becomes a creditor under Mexican law. It becomes 19 entitled to repayment under Mexican law. 20 Q. Who holds -- 21 A. And then -- 22 Q. -- a maritime privilege? 23 MR. RUFTY: Please let him finish the 24 answer. 25 A. Well, that's what I'm getting to.</p>	<p style="text-align: right;">Page 101</p> <p>1 A creditor of a service provided to the 2 vessel has the ability to exercise maritime privilege 3 under Mexican law. 4 Q. (BY MR. SOTO) Let's say a vendor provides 5 portage services in January 1st of 2015. 6 A. All right. 7 Q. It is a creditor, and it has a maritime lien 8 that's enforceable against the vessel as of the date 9 it provides those services; correct? 10 A. It depends on the agreement between JRB and 11 the service provider. 12 This is where I think you're getting lost in 13 the distinction between U.S. law and Mexican law with 14 regard to these maritime privileges. 15 Q. When a vendor provides services -- 16 A. Yes. 17 Q. -- on January 1st of 2015 -- 18 A. Okay. 19 Q. -- the type of services it gives are, I 20 assume, maritime privilege. 21 A. Okay. 22 Q. Does that vendor have a maritime privilege 23 when those services are provided? 24 A. Depends on the agreement between JRB and the 25 vendor.</p>

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<p style="text-align: right;">Page 102</p> <p>1 Q. I'm not talking about JRB.</p> <p>2 A. That's -- here's what I'm trying to tell you.</p> <p>3 You're getting lost in this.</p> <p>4 In Mexico, in order to exercise the maritime</p> <p>5 privilege, you have to maintain the status of</p> <p>6 creditor. That's very clear from the opening language</p> <p>7 of Article 91.</p> <p>8 Is that clear to you? You have to be a</p> <p>9 creditor. That's step one.</p> <p>10 Merely because somebody provides services to</p> <p>11 a vessel in Mexico does not, on its own, make that</p> <p>12 person a creditor that can exercise the maritime</p> <p>13 privilege.</p> <p>14 And here's why: If the agreement between the</p> <p>15 service provider and JRB was that the service provider</p> <p>16 would look to JRB, then JRB, when it pays that</p> <p>17 vendor -- when it pays that vendor becomes the</p> <p>18 creditor that can exercise the privileges against the</p> <p>19 vessel. But the service provider may not be in that</p> <p>20 status yet.</p> <p>21 Q. So if the service provider and JRB have an</p> <p>22 understanding that JRB is going to be responsible for</p> <p>23 the cost --</p> <p>24 A. To the vendor.</p> <p>25 Q. Let me finish my question.</p>	<p style="text-align: right;">Page 103</p> <p>1 A. Okay.</p> <p>2 Q. If JRB and the vendor have an understanding</p> <p>3 that the JRB is going to be responsible for the cost,</p> <p>4 then does that mean that the vendor does not have a</p> <p>5 maritime privilege against the vessel?</p> <p>6 A. Based on those facts, in my expert opinion,</p> <p>7 the vendor cannot trigger Article 91. That's going to</p> <p>8 be left for JRB to do, once it becomes a creditor by</p> <p>9 paying the vendor.</p> <p>10 Q. Because there's an understanding between the</p> <p>11 two that JRB is going to pay those expenses?</p> <p>12 A. That's right.</p> <p>13 Q. If you have a vendor who provides services to</p> <p>14 JRB and there is no agreement between the two -- not</p> <p>15 one that's been produced, certainly -- then does the</p> <p>16 vendor have a maritime lien against the vessel when</p> <p>17 those services are provided?</p> <p>18 A. Not necessarily. Because in your</p> <p>19 hypothetical, you say that there's no understanding.</p> <p>20 But even if there's no written understanding, Mexican</p> <p>21 law can impose an obligation.</p> <p>22 In other words, in that context, Mexican law,</p> <p>23 substantive law that deals with the establishment of</p> <p>24 debtor/creditor relationships, can say that by merely</p> <p>25 asking for the provision of the service, JRB is</p>
<p style="text-align: right;">Page 104</p> <p>1 agreeing implicitly to compensate the service provider</p> <p>2 for the service.</p> <p>3 Q. So my understanding of your testimony, JRB</p> <p>4 can order services to be provided for a vessel, wait a</p> <p>5 year and not pay those vendors.</p> <p>6 Pay those vendors after a year, and that's</p> <p>7 when the accrual of the -- or, that's when its</p> <p>8 maritime lien becomes effective?</p> <p>9 A. I think you're getting away from these facts:</p> <p>10 In this context, the issue is, was there an agreement</p> <p>11 between JRB and the service provider? If the</p> <p>12 agreement was that the service provider would provide</p> <p>13 the service and seek reimbursement from somebody other</p> <p>14 than JRB, or that there was no understanding to come</p> <p>15 and be paid by JRB, then that service provider can</p> <p>16 seek whatever form of relief it wants. That can be a</p> <p>17 contract action against the vessel or the owner, it</p> <p>18 can be an unjust enrichment action against the vessel</p> <p>19 or the owner, it can be an action against JRB for an</p> <p>20 implicit contract. But the question is, can it</p> <p>21 exercise this maritime privilege? And the issue is,</p> <p>22 if there's completely no understanding between JRB and</p> <p>23 the service provider, possibly.</p> <p>24 Q. What is your understanding of what happened</p> <p>25 in this lawsuit? Is JRB seeking to enforce its own</p>	<p style="text-align: right;">Page 105</p> <p>1 maritime privilege that -- that arose unique to it, or</p> <p>2 did it subrogate and take the place of a maritime lien</p> <p>3 or privilege that belonged to other vendors?</p> <p>4 A. And again, you're mixing apples and oranges.</p> <p>5 In Mexico, you have a two-step process.</p> <p>6 First, you have to obtain creditor status. That's a</p> <p>7 function of substantive law outside of the law of</p> <p>8 mercantile commerce -- not mercantile commerce,</p> <p>9 navigation and -- what's the word I'm looking for?</p> <p>10 Q. I don't know.</p> <p>11 A. Law of commercial maritime commerce.</p> <p>12 The maritime privilege in Mexico is a</p> <p>13 creature of a statute, the law of maritime commerce,</p> <p>14 okay? You don't find it in the federal civil code,</p> <p>15 you don't find it in the commercial code, you don't</p> <p>16 find it in any other statute. It's there in that</p> <p>17 particular law.</p> <p>18 And what it says is that in order to get the</p> <p>19 privilege, the benefit of this preferential payment</p> <p>20 process, which is this privilege, you have to be a</p> <p>21 creditor.</p> <p>22 To determine under Mexican law whether</p> <p>23 somebody is a creditor you don't look at the law of</p> <p>24 maritime commerce. It's not in that statute. You've</p> <p>25 looked in other places like the commercial code or the</p>

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<p style="text-align: right;">Page 106</p> <p>1 federal civil code. And so that's the point of my 2 answer to you.</p> <p>3 Whether these suppliers out there of whatever 4 might have been to the show, if there is no 5 understanding whatsoever about them getting paid, 6 then, arguably, they could become -- could achieve 7 creditor status that would allow them to exercise the 8 maritime privilege.</p> <p>9 However, if there's an agreement between JRB 10 and those service providers that they are to look to 11 JRB, then they wouldn't have that ability.</p> <p>12 Q. Have you analyzed the invoices made the 13 subject of JRB's lien to determine whether the 14 invoices have been extinguished by limitations?</p> <p>15 A. I've analyzed the invoices, I've seen that 16 they have various dates and various amounts. I did 17 not look at the date of the filing of the lawsuit in 18 the United States and then do an analysis of which of 19 those invoices were incurred and paid within one year 20 before the date of the file. I did not do that 21 analysis.</p> <p>22 Q. You said you reviewed the expert report of 23 Enrique Garza?</p> <p>24 A. I've skimmed it.</p> <p>25 Q. And have you seen his opinions that several</p>	<p style="text-align: right;">Page 107</p> <p>1 of the invoices are barred limitation?</p> <p>2 A. I did see that, yes.</p> <p>3 Q. Do you dispute his conclusions?</p> <p>4 A. I haven't had a chance to perform my own 5 analysis of his conclusion.</p> <p>6 Q. Section 4 of your report, pages 6 and 7, 7 discuss the categories of services that give rise to a 8 maritime lien in Mexico.</p> <p>9 A. Okay.</p> <p>10 Q. Have you analyzed the invoices made the 11 subject of JRB's lien to determine which invoices can 12 support a lien because they do not fall within the 13 statutory categories of services?</p> <p>14 A. I have.</p> <p>15 Q. Okay. And when did you do that work?</p> <p>16 A. It would have been in December or January in 17 connection with my declaration.</p> <p>18 Q. And have you listed or set forth anywhere 19 those invoices that you have determined cannot support 20 a maritime lien because they do not fall within the 21 category services?</p> <p>22 A. Yes.</p> <p>23 Q. Where did you do that?</p> <p>24 A. If you look at 1.7(e) on page 4, I note that 25 during the period July 2015 to July 2016, JRB incurred</p>
<p style="text-align: right;">Page 108</p> <p>1 and paid over 66,500,000 pesos in crew salaries and 2 then another 200,000 pesos for pilotage, mooring, 3 towing and other port services.</p> <p>4 So when I did my analysis, I saw that under 5 Article 91 of the Maritime Commerce Law, only certain 6 types of expenses related to -- in connection with a 7 vessel are granted the privilege; others are not.</p> <p>8 And so when I went through the invoices, I 9 saw some invoices that did not fit into the categories 10 of Article 91.</p> <p>11 Q. And have you listed those invoices that did 12 not fit somewhere?</p> <p>13 A. No, I haven't listed them anywhere.</p> <p>14 Q. Did you list the invoices that did fit?</p> <p>15 A. I didn't list the invoices that did fit, no.</p> <p>16 Q. So you can't point me to any document or 17 anyplace in your report where I can determine which 18 invoices you've determined can support a maritime lien 19 and which ones cannot?</p> <p>20 MR. RUFTY: Object to form.</p> <p>21 A. Not to a list. But what I could do or what 22 you could do is go through the set of invoices that I 23 received, parse out those that relate to crew 24 salaries, and the total should be in the neighborhood 25 of 6.5 million pesos. And that's how you would know</p>	<p style="text-align: right;">Page 109</p> <p>1 what invoices I'm talking about.</p> <p>2 Moreover, I specify in paragraph 1.7(e) the 3 time period of those invoices. So that's another set 4 of facts that can be used to identify which invoices 5 I'm talking about.</p> <p>6 Q. (BY MR. SOTO) So I need to go through the 7 invoices and look for the ones for crew salaries and 8 then go through the ones that look -- that have to 9 deal with pilotage, mooring, towing -- and here's the 10 part that's difficult for me. You say "other port 11 services."</p> <p>12 I don't know what that means, so how am I 13 going to identify those invoices?</p> <p>14 A. To me, it was obvious on the face of the 15 invoice what the service was that was provided or 16 whether it was a salary. I was able to make that 17 determination with very little difficulty.</p> <p>18 And again, I was reading the original Spanish 19 version of the invoices. It wasn't a problem.</p> <p>20 Do I include a list, no. Is it possible to 21 come up with a list, sure.</p> <p>22 Q. If I'm going to try to recreate -- strike 23 that.</p> <p>24 If I'm going to try to determine which 25 invoices you allowed and which ones you disallowed,</p>

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<p style="text-align: right;">Page 110</p> <p>1 what I'm going to look for, though, is something that</p> <p>2 matches those two totals that are on 1.7(e), 6,500,00</p> <p>3 and then the 200,000?</p> <p>4 A. What I would do is, I would take the set of</p> <p>5 invoices, and I would just create different stacks:</p> <p>6 crew salaries on one hand, portage services on another</p> <p>7 hand, and everything else.</p> <p>8 Q. Can you tell me the amount of invoices that</p> <p>9 you found that were not allowed?</p> <p>10 A. More or less. If you look at paragraph</p> <p>11 1.7(e), there were 17 million pesos of expenses in</p> <p>12 those invoices. If you deduct 6.7 million pesos from</p> <p>13 that number, you end up with approximately 11 -- 10.3</p> <p>14 million pesos.</p> <p>15 Q. That were disallowed?</p> <p>16 A. That were disallowed. Or, not disallowed,</p> <p>17 but not within the requirements of Article 91 of the</p> <p>18 Maritime Commerce Law.</p> <p>19 Q. That would not give rise to maritime lien or</p> <p>20 maritime privilege?</p> <p>21 A. That's right.</p> <p>22 Q. Have you reviewed the opinions by Enrique</p> <p>23 Garza wherein he concludes that several invoices</p> <p>24 cannot give rise to a maritime lien under Mexican law?</p> <p>25 A. I did see him say that in his declaration,</p>	<p style="text-align: right;">Page 111</p> <p>1 yes.</p> <p>2 Q. And do you dispute his conclusions?</p> <p>3 A. As I sit here today, since I got his expert</p> <p>4 report only yesterday, I haven't had a chance to</p> <p>5 perform my analysis. I may disagree, I may agree, I</p> <p>6 don't know yet.</p> <p>7 Q. You state in your report that some of the</p> <p>8 services at issue in this lawsuit were provided</p> <p>9 directly, and some were provided indirectly.</p> <p>10 Have you taken to identify those services</p> <p>11 that provided directly by JRB and those that were</p> <p>12 provided by vendors?</p> <p>13 A. As I recall -- and, again, it's been a little</p> <p>14 while since I've looked at the invoices -- it may</p> <p>15 be -- you know, I just don't remember which were</p> <p>16 provided directly or through vendors. It occurs to me</p> <p>17 that when I was referring to anything provided direct,</p> <p>18 that may have been crew salaries. But I'm not sure,</p> <p>19 as I sit here today.</p> <p>20 Q. It's my understanding that there are no</p> <p>21 assignments between JRB and the vendors that provide</p> <p>22 the services. Is that your understanding as well?</p> <p>23 A. I don't know anything about that, whether</p> <p>24 there are or not.</p> <p>25 Q. You haven't reviewed any assignments, have</p>
<p style="text-align: right;">Page 112</p> <p>1 you?</p> <p>2 A. I have not seen anything that I would view as</p> <p>3 an assignment to the vendors.</p> <p>4 Q. Did you assume an assignment exists?</p> <p>5 A. No.</p> <p>6 Q. It's my understanding that, in Mexico, there</p> <p>7 is a database -- tax administration service database</p> <p>8 which lists invoices.</p> <p>9 Are you familiar with this database?</p> <p>10 A. Yes.</p> <p>11 Q. Have you undertaken to search for the</p> <p>12 invoices at issue in this lawsuit in that database?</p> <p>13 A. No.</p> <p>14 Q. Are there any opinions in Enrique Garza's</p> <p>15 report, as we sit here today, that you can tell me</p> <p>16 that you do dispute or do disagree with?</p> <p>17 A. As I said when we began the deposition, he</p> <p>18 and I have lots of areas of agreement. There are</p> <p>19 basically a couple of areas of disagreement. And I'm</p> <p>20 not at a point yet, because of -- I only received his</p> <p>21 report yesterday, where I have opinions either way --</p> <p>22 Q. Okay.</p> <p>23 A. -- on his -- on his opinions.</p> <p>24 Q. You said -- you just said, though, that there</p> <p>25 are a few areas that you do disagree.</p>	<p style="text-align: right;">Page 113</p> <p>1 Can you tell me what those -- what areas</p> <p>2 those are?</p> <p>3 A. Sure.</p> <p>4 We've referenced today what we're calling the</p> <p>5 certificate of deposit of the ship July 2015. It's</p> <p>6 Exhibit No. 5.</p> <p>7 Earlier, you and I spent some time discussing</p> <p>8 this provision in that document, or this phrase in</p> <p>9 that document, without requesting any refund for the</p> <p>10 bailment.</p> <p>11 I noted that that Mr. Garza interpreted that</p> <p>12 phrase very liberally in favor of Marfield. In other</p> <p>13 words, I think he took license with that phrase in a</p> <p>14 way that is not supported by the documents.</p> <p>15 So that's one area where he and I don't see</p> <p>16 things the same way.</p> <p>17 Q. Do you have any information to dispute his</p> <p>18 interpretation of that provision?</p> <p>19 A. Sure.</p> <p>20 Q. What do you have?</p> <p>21 A. His affidavit itself. In other words, he</p> <p>22 attributes to it language or intent that I don't think</p> <p>23 is clear from the face of the document.</p> <p>24 Q. And my understanding from our -- when we</p> <p>25 discussed that provision in-depth was that your</p>

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<p style="text-align: right;">Page 114</p> <p>1 opinion today is that you cannot say what the meaning 2 is, because there are different meaning -- different 3 possible meanings?</p> <p>4 A. And that's exactly my point. He attributes 5 to it a particular meaning that I would argue with him 6 is not necessarily the meaning.</p> <p>7 Q. Okay. It might be, but it might not be?</p> <p>8 A. Sure.</p> <p>9 And I think, at the end of the day, the judge 10 is going to decide what it means, and the judge may 11 agree with him or not agree with him.</p> <p>12 Q. Any other areas that you disagree with?</p> <p>13 A. He discussed some provisions of Mexican law 14 concerning commercial agency and/or subrogation.</p> <p>15 I talk about those issues. He references 16 some provisions of Mexican law that I don't. And so 17 I'm not sure that we disagree on them, I just know 18 that was a difference that I wanted to think about as 19 well.</p> <p>20 Q. Okay. Anything else that you can think of 21 that you disagree with as we sit here today?</p> <p>22 A. As I sit here today, that's -- those are the 23 two things that stand out in my mind.</p> <p>24 Q. And to be fair, I have his report here. I 25 can hand it to you, if it would help. But certainly,</p>	<p style="text-align: right;">Page 115</p> <p>1 if --</p> <p>2 A. I don't think it would help, because sitting 3 here today, I can't answer your question completely.</p> <p>4 Q. I want to ask you about a maritime lien or 5 privilege under Mexican law for the payment of crew 6 wages. Okay? And what I want to know is -- and my 7 understanding is, a maritime lien or privilege can 8 arise from the payment of crew wages; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. My question is -- I want to give you 11 two scenarios. Okay? One is where a creditor pays 12 the crew wages himself, and I believe that's probably 13 the standard, easiest way in which a maritime lien 14 would then arise; correct?</p> <p>15 MR. RUFTY: Object to form.</p> <p>16 Q. (BY MR. SOTO) Is that not correct?</p> <p>17 A. Here's the problem with your question: You 18 continue to use the word "maritime lien," and --</p> <p>19 Q. I'll strike it, and I'll --</p> <p>20 A. -- privilege is -- I mean, it is in rem. 21 That's clear. So it's like a lien. But I like to 22 stick to the idea of a privilege, because it's really 23 a method of enforcing an obligation.</p> <p>24 Q. Fair enough.</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 116</p> <p>1 Q. A creditor pays for -- pays crew wages 2 directly.</p> <p>3 A. Okay.</p> <p>4 Q. That gives rise to a maritime privilege; 5 correct?</p> <p>6 A. When a person pays crew salaries, other 7 things being equal, they become a creditor. And under 8 the Maritime Commerce Law, once they achieve creditor 9 status as to the payment of crew salaries, they can 10 exercise the maritime privilege.</p> <p>11 Q. What if the creditor does not pay the crew 12 salaries? What if, instead, the creditor pays a 13 staffing agency, who then goes -- the staffing agency 14 goes and engages the crew and pays the crew salaries?</p> <p>15 A. And what is the understanding between the 16 person that hires the staffing company and the 17 staffing company as to their arrangement?</p> <p>18 Q. Is that necessary to know?</p> <p>19 A. Yes.</p> <p>20 Q. Can you explain why?</p> <p>21 A. Sure.</p> <p>22 As I've explained to you, whether somebody is 23 a creditor under Mexican law is a function of Mexican 24 substantive law outside of the Maritime Commerce Law. 25 So if that staffing agency has an understanding with</p>	<p style="text-align: right;">Page 117</p> <p>1 the person that engaged it or retained it, that the 2 staffing agency is to look only to that person for the 3 payment, then they're a creditor as to that person 4 that retained them, but not necessarily able -- a 5 creditor that can use the maritime privilege.</p> <p>6 Q. And I'm asking with respect to the creditor 7 who engages the staffing agency.</p> <p>8 A. Okay.</p> <p>9 Q. Does that creditor then have a maritime 10 privilege against the vessel, since it didn't pay the 11 crew wages itself, it has paid a staffing agency? 12 Does that creditor have a maritime privilege against 13 the vessel?</p> <p>14 A. In your situation, does the person that 15 engaged the staffing agency actually pay the staffing 16 agency?</p> <p>17 Q. Let's assume it does.</p> <p>18 A. Yes, then it becomes a creditor that is able, 19 under Mexican law, to exercise the maritime privilege.</p> <p>20 Q. So if the staffing agency pays the crew 21 wages, the creditor pays the staffing agency, then, in 22 your opinion, the creditor has a maritime privilege 23 against the vessel?</p> <p>24 A. The party that ultimately pays the obligation 25 is going to be the party that is a -- that is the</p>

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<p style="text-align: right;">Page 118</p> <p>1 creditor in that circumstance, under Mexican law.</p> <p>2 Q. And here -- and this is what I'm getting at:</p> <p>3 Aren't there two different obligations there? There's</p> <p>4 an obligation to pay the crew wages, which is paid by</p> <p>5 the staffing agency.</p> <p>6 A. Okay.</p> <p>7 Q. And then there's an obligation to pay the</p> <p>8 staffing agency, which is paid by the creditor?</p> <p>9 A. Sure.</p> <p>10 Q. Okay. So does the creditor have a maritime</p> <p>11 lien, under Article 91, against the vessel if it did</p> <p>12 not pay the crew wages, it paid the staffing agency?</p> <p>13 MR. RUFTY: Object to form.</p> <p>14 A. It does.</p> <p>15 Q. (BY MR. SOTO) Okay.</p> <p>16 A. Because it's a creditor as to the provision</p> <p>17 of a type of expense that is within Article 91 of the</p> <p>18 Maritime Commerce Law.</p> <p>19 Q. Where in Article 91 does it list payment of</p> <p>20 crew staffing agencies as a type of debt that gives</p> <p>21 rise to a maritime privilege?</p> <p>22 A. Okay. As I've said several times now, you</p> <p>23 don't look to the Maritime Commerce Law, which means</p> <p>24 you don't look to Article 91 to determine whether</p> <p>25 somebody is or is not a creditor under Mexican law.</p>	<p style="text-align: right;">Page 119</p> <p>1 You look to Mexican substantive law, which is either</p> <p>2 the federal civil code, the commercial code or some</p> <p>3 other body of Mexican law.</p> <p>4 In fact, to be honest with you, it can even</p> <p>5 be a body of foreign law, as long as they obtain a</p> <p>6 creditor status.</p> <p>7 What Mexican maritime law says is that</p> <p>8 somebody who is in a status as a creditor with regard</p> <p>9 to expenses relating to a vessel has an additional</p> <p>10 method of enforcing the obligation and getting</p> <p>11 compensation. And that is called a maritime</p> <p>12 privilege. Which means a proceeding in rem against</p> <p>13 the vessel, regardless of where it's at.</p> <p>14 Q. I'm sorry, but my understanding is that</p> <p>15 you're saying that Article 91 is that a creditor, with</p> <p>16 respect to certain types of debts, has a privilege</p> <p>17 against a vessel; correct?</p> <p>18 A. As to certain types of expenditures.</p> <p>19 Q. Okay.</p> <p>20 A. Whether -- I mean, they are debts in the</p> <p>21 sense that -- in the context of a situation like we</p> <p>22 have in this case.</p> <p>23 Q. Expenditures that are outside of Article 91</p> <p>24 or outside of the expenditures listed in Article 91 do</p> <p>25 not give rise to a maritime privilege; correct?</p>
<p style="text-align: right;">Page 120</p> <p>1 A. If I pay something relating to a vessel or to</p> <p>2 maintain a vessel that's not within Article 91, I</p> <p>3 don't have, under Mexican law, a maritime privilege as</p> <p>4 to that expense.</p> <p>5 Q. So where in Article 91 does it list payment</p> <p>6 of a staffing agency, a crew staffing agency, as the</p> <p>7 type of expenditure that gives rise to a maritime</p> <p>8 privilege?</p> <p>9 A. And as I said a moment ago, your question</p> <p>10 doesn't make sense in the way that Mexicans have</p> <p>11 structured their law in this context.</p> <p>12 The Mexicans require -- allow this benefit of</p> <p>13 a maritime privilege to be exercised only by a</p> <p>14 creditor. But the Mexican Law of Maritime Commerce</p> <p>15 doesn't tell you who is or who isn't a creditor.</p> <p>16 That's totally up to another body of law. And so</p> <p>17 you're not going to see, in Article 91, a designation</p> <p>18 of a staffing agency or a vessel owner or anything.</p> <p>19 They don't care. Article 91's purpose is not to do</p> <p>20 that.</p> <p>21 Article 91's purpose is to be invoked when</p> <p>22 somebody has achieved creditor status as a matter of</p> <p>23 Mexican substantive law or other substantive law.</p> <p>24 Q. Creditor status is outside of Article 91;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 121</p> <p>1 A. That's exactly right.</p> <p>2 Q. So if you are a creditor with respect to</p> <p>3 certain expenditures that are listed within Article</p> <p>4 91, then you do have a maritime privilege; correct?</p> <p>5 A. Absolutely. You hit it on the head. That's</p> <p>6 exactly right.</p> <p>7 Q. So if you are a creditor of payment of an</p> <p>8 expenditure that is payment to a staffing agency, you</p> <p>9 are -- assuming you are a creditor, where in Article</p> <p>10 91 does it say that expenditure gives rise to a</p> <p>11 maritime privilege?</p> <p>12 A. You're asking the question wrong.</p> <p>13 It's not Article 91 that creates creditor</p> <p>14 status. Here's how you get -- in the staffing agency</p> <p>15 example you're asking me, here's how the person that</p> <p>16 engages the staffing agency becomes the creditor:</p> <p>17 There probably would be an understanding that the</p> <p>18 staffing agency is going to make a payment to the crew</p> <p>19 for salary and will be compensated and reimbursed by</p> <p>20 the party that engaged it to do so.</p> <p>21 In that context, the staffing agency is</p> <p>22 acting as an agent of the person who ultimately pays.</p> <p>23 When an agent incurs an expense on behalf of</p> <p>24 the principal and is reimbursed under the</p> <p>25 understanding it's going to be reimbursed by the</p>

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<p style="text-align: right;">Page 122</p> <p>1 principal solely, can't look anywhere else, then that 2 situation does not give rise to a maritime privilege 3 by the staffing agency. 4 Once the principal that engages the staffing 5 agency compensates the staffing agency and is out of 6 pocket for that, that principal that engaged the 7 staffing agency becomes the creditor with respect to 8 that payment of salaries. That's how it works. 9 Q. If I don't have any information as to what 10 happened between staffing agency and the crew and the 11 staffing agency and the creditor, I don't know who 12 paid the crew, I don't know who paid the staffing 13 agency, I don't know what kind of agreement they have 14 between them, in that situation, are we simply lacking 15 enough information to determine whether or not the 16 creditor has a maritime privilege? 17 A. In that situation, we do know some things. 18 We do know that it was the staffing agency that made 19 the actual payment, right, of salaries? 20 Q. No, I don't. 21 A. Oh. 22 Q. I don't know. 23 A. Okay. I don't know how to answer your 24 question, then. 25 No, we -- I guess the answer to your question</p>	<p style="text-align: right;">Page 123</p> <p>1 would be, we'd need more information. 2 Q. All I know is that a creditor paid a staffing 3 agency. That's it. I don't know whether that 4 staffing agency paid crew members, I don't know if 5 there's an agreement between them. 6 A. Oh, okay. 7 Q. I have no idea. 8 A. Okay. 9 Q. Is there enough information there to 10 determine whether or not the creditor has a maritime 11 privilege against the vessel? 12 A. In other words, we have, in your example, an 13 invoice from a staffing agency saying that it made 14 these payments to the crew. Or we don't even have 15 that? 16 Q. No. 17 A. Okay. All we have is the staffing agency 18 telling the principal, for lack of a better 19 description, that it did something with regard to crew 20 salaries? That's all we have? 21 Q. No. All we have is an invoice from a 22 staffing agency to a creditor. 23 A. Right. 24 Q. Didn't say it did anything. Just an invoice. 25 A. Okay. So you're saying, in your example, the</p>
<p style="text-align: right;">Page 124</p> <p>1 staffing agency issues an invoice to the party that 2 engaged it, and this invoice reflects that crew 3 salaries were paid, but we don't have information that 4 the staffing agency actually gave a paycheck to the 5 captain or other crew members? 6 Q. I don't know whether or not the invoice says 7 the crew salary were paid, because the charge to the 8 creditor may not be dollar for dollar what the crew is 9 being paid. We just have an invoice from a staffing 10 agency to a creditor. 11 A. I guess I'd have to see the invoice to be 12 able to answer your question more thoroughly. I just 13 don't know. I'm kind of lost in that example, sorry. 14 Q. So you can't tell me whether or not a payment 15 of an invoice from a crew staffing agency alone is 16 enough to give rise to a maritime privilege? 17 MR. RUFTY: Object to form. 18 A. And there's no evidence of payment of the 19 crew or the arrangement between the staffing agency 20 and the principal? 21 Q. (BY MR. SOTO) No. 22 A. Yeah, I would need to know the additional 23 information, yeah. 24 Q. Do you agree that a maritime privilege that 25 arises from the repair of the vessel is extinguished</p>	<p style="text-align: right;">Page 125</p> <p>1 when that vessel is redelivered to the owner? 2 A. Under Mexican law? 3 Q. Correct. 4 A. I don't have any opinion on that. That's not 5 answered by Article 91 or the other provisions of the 6 Maritime Commerce Law relating to the maritime 7 privilege. 8 MR. SOTO: Let's go off the record, 9 because I need to go to the restroom. 10 (Break.) 11 MR. SOTO: Mr. Lopez, I thank you for 12 your time. 13 And I pass the witness. 14 E X A M I N A T I O N 15 BY MR. RUFTY: 16 Q. In your testimony, you referenced a couple of 17 times unjust enrichment as a possible basis for 18 becoming a creditor. 19 Does that have any potential bearing in this 20 case, as far as you can tell? 21 A. Potentially. What I saw on the facts of this 22 case were that JRB was engaged as SQM's agent in July 23 of 2015. That immediately led me to think about the 24 agency provisions of the Mexican -- of Mexican law. 25 I then had the understanding that it was JRB</p>

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<p style="text-align: right;">Page 126</p> <p>1 that procured services and paid expenses. This was 2 the reason why, when I was doing my work, I asked for 3 confirmation that JRB had made the payments. And 4 again, that's important to my analysis, because you 5 have to achieve creditor status to be able to invoke 6 the maritime privilege under Mexican law. 7 So my affidavit talks about payment, 8 subrogation and agency as the way JRB becomes a 9 creditor. 10 Mexican law, like U.S. law, has claimed a 11 provision in the Federal Civil Code that gives rise to 12 a creditor-debtor relationship based merely on unjust 13 enrichment. It's Article 1882 of the Federal Civil 14 Code. And it's the Federal Civil Code that applies in 15 these situations, because you're dealing with maritime 16 law, which is federal in Mexico. 17 And it is possible to view JRB as a creditor, 18 as achieving creditor status, under an unjust 19 enrichment theory, as well as the agency subrogation 20 and payment theory. 21 Q. When you say "it's possible to view," what do 22 you mean by that? 23 A. In other words, if you take the elements of 24 an unjust enrichment claim under Mexican law, it 25 appears that JRB satisfies those elements.</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. And what are those elements? 2 A. I don't remember the exact wording of Article 3 1882 of the Federal Civil Code; but, basically, it 4 provides that if somebody becomes benefited or 5 enriched at the expense of another party and justice 6 requires that the party that benefited compensate the 7 payor, then the court can authorize where a party's 8 entitled to that reimbursement up to the amount of the 9 enrichment. That's generally what it provides. 10 Q. You were asked some questions about the -- on 11 a hypothetical basis about the terms of agreement 12 between JRB and SGM, and in particular on the question 13 of whether there may have been an agreement that JRB 14 would pursue payment only against SGM. 15 Do you recall that general line of 16 questioning? 17 A. Generally, yes. 18 Q. Am I correct that your view was essentially 19 that if JRB agreed to pursue payment only against SGM, 20 that it would be so limited? 21 A. Yes. 22 Q. And does that mean that if JRB did not agree 23 they would pursue payment only against SGM, then JRB 24 would not be limited by their agreement to pursuing 25 payment only against SGM?</p>
<p style="text-align: right;">Page 128</p> <p>1 A. I would answer the question this way: If, at 2 the formation of the relationship between SGM and JRB, 3 the understanding between the parties was that JRB 4 could be a creditor ultimately only as to SGM, nobody 5 else, in that context, JRB, even if it did everything 6 that I understood it did here -- procured services, 7 paid for services, paid for salaries -- then by virtue 8 of agreement, as a matter of Mexican substantive law, 9 it's constrained to that agreement and cannot exercise 10 a maritime privilege. 11 If, however, JRB and SGM did not have that 12 type of express understanding or limitation, then it 13 is possible, under Mexican substantive law, for JRB to 14 become a creditor in its own right. 15 Q. Okay. Thank you. 16 MR. RUFTY: Bear with me one second. I 17 may be finished already. 18 MR. SOTO: Take your time. 19 THE WITNESS: Easy for you to say. 20 MR. RUFTY: Thank you for answering my 21 questions. That's all I have. 22 MR. SOTO: I'm going to have a few 23 follow-up, I guess. 24 25</p>	<p style="text-align: right;">Page 129</p> <p>1 FURTHER EXAMINATION 2 BY MR. SOTO: 3 Q. I want to talk about the unjust enrichment 4 theory that you just discussed. 5 Is your opinion and conclusion that there is 6 an unjust enrichment theory, based on the documents, 7 information and assumptions contained within your 8 report? 9 A. Yes, with one exception. And that is this 10 additional wrinkle about JRB and SGM not having an 11 agreement that JRB can look solely to SGM for 12 reimbursement. 13 Q. And I understand that what you're saying is, 14 there may be additional evidence which would change 15 that opinion. 16 In terms of whether or not there is an unjust 17 enrichment theory, in your opinion, is the information 18 required to support that theory contained within the 19 documents that are listed in your report and the 20 information that was provided to you by counsel, as 21 set forth in your report discussed today? 22 A. Yes. 23 Q. My question to you is, why is that unjust 24 enrichment theory not set forth in your report? If 25 you had the information available to you to support</p>

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<p style="text-align: right;">Page 130</p> <p>1 that theory, why is it not in your report?</p> <p>2 A. I guess, at the time I wrote my report, I</p> <p>3 viewed that it was unnecessary to go into every</p> <p>4 possible basis under Mexican substantive law for why</p> <p>5 JRB may have achieved creditor status. And the one</p> <p>6 that I explained, to me, was a very clear one, and</p> <p>7 that that was sufficient.</p> <p>8 Q. Okay. And when you talk about unjust</p> <p>9 enrichment and then JRB being the creditor, I suppose,</p> <p>10 in the unjust enrichment claim --</p> <p>11 A. Correct.</p> <p>12 Q. -- who is -- who was the debtor in that</p> <p>13 unjust enrichment claim?</p> <p>14 A. Whoever is unjustly enriched by the conduct.</p> <p>15 Q. Can the vessel be unjustly enriched? Can the</p> <p>16 vessel be the debtor, under Mexican law?</p> <p>17 A. It may be that the owner of the vessel is the</p> <p>18 debtor.</p> <p>19 Q. Okay.</p> <p>20 A. For purposes of Mexican maritime law, the</p> <p>21 debt can be enforced as to the vessel under Article</p> <p>22 91, but the vessel may not necessarily be the debtor.</p> <p>23 Q. What I'm -- my question to you is: In the</p> <p>24 unjust enrichment theory that you just presented to</p> <p>25 Plaintiff's counsel --</p>	<p style="text-align: right;">Page 131</p> <p>1 A. Yes.</p> <p>2 Q. -- as a potential theory, who were you</p> <p>3 referring to as the debtor in that theory?</p> <p>4 A. Whoever was unjustly enriched.</p> <p>5 Q. And do you know who that party is?</p> <p>6 A. It's whoever derived the benefit of the</p> <p>7 services and payments by JRB. And so the vessel's</p> <p>8 benefited, clearly; but for purposes of the maritime</p> <p>9 privilege, that's really beside the point. The issue</p> <p>10 is, who could have an obligation to repay what was</p> <p>11 unjustly received? And it would be the recipient.</p> <p>12 Let's say -- in the example that we're using,</p> <p>13 because Marfield, in February 2017, was deemed to be</p> <p>14 the owner of the vessel, to me, they would be a clear</p> <p>15 recipient of the enrichment.</p> <p>16 Q. I want to -- I want to know, for purposes of</p> <p>17 this unjust enrichment theory, who it is you are</p> <p>18 saying received the benefit, if anybody. Or are you</p> <p>19 just not making that opinion? Are you not --</p> <p>20 A. Clearly Marfield --</p> <p>21 Q. Okay.</p> <p>22 A. -- would have received the benefit.</p> <p>23 Q. So you believe Marfield is the debtor in this</p> <p>24 unjust enrichment theory?</p> <p>25 A. Marfield clearly is a beneficiary of the</p>
<p style="text-align: right;">Page 132</p> <p>1 unjust enrichment, that much I can say today.</p> <p>2 As to anybody else, I don't have an opinion</p> <p>3 at this point.</p> <p>4 Q. The expenses that were incurred were expenses</p> <p>5 to fulfill SGM's obligations as a depository; correct?</p> <p>6 A. Yes, I agree with that.</p> <p>7 Q. So if JRB, as SGM's agent, went out and</p> <p>8 procured services to fulfill SGM's obligations of the</p> <p>9 depository, isn't it SGM who benefited from those</p> <p>10 services?</p> <p>11 A. Yes. But that was pursuant to an agency</p> <p>12 relationship; and therefore, you don't get to implied</p> <p>13 obligation for unjust enrichment.</p> <p>14 Q. I'm not sure I understand what the applied</p> <p>15 obligation is.</p> <p>16 A. Sure.</p> <p>17 Q. But you testified earlier that the party who</p> <p>18 benefited from the services is the party who is the</p> <p>19 debtor in an unjust enrichment theory, and the party</p> <p>20 who benefited from JRB's services was SGM, because</p> <p>21 those services were procured in fulfillment of its</p> <p>22 obligations as a depository; correct?</p> <p>23 MR. RUFTY: Object to form.</p> <p>24 A. It's a very good point. Under Texas law --</p> <p>25 you may just know this offhand. Under Texas law, if</p>	<p style="text-align: right;">Page 133</p> <p>1 you have a relationship governed by an express</p> <p>2 contract, then implied contractual theories like</p> <p>3 unjust enrichment are not available. In other words,</p> <p>4 your relief is under the agreement, not under an</p> <p>5 implied agreement.</p> <p>6 And so it's the same in Mexico. An unjust</p> <p>7 enrichment theory is kind of an equitable theory</p> <p>8 applied in a context where there is not an express</p> <p>9 relationship or express agreement. Because, as to SGM</p> <p>10 and JRB, there is an express relationship, an agency</p> <p>11 relationship, you don't reach unjust enrichment as a</p> <p>12 basis for creating a creditor-debtor situation.</p> <p>13 Now, between Marfield and JRB, there is no</p> <p>14 express contract. So that's why you would reach an</p> <p>15 implicit contract theory like unjust enrichment.</p> <p>16 Q. (BY MR. SOTO) So you're saying SGM doesn't</p> <p>17 have a claim against -- I'm sorry, strike that.</p> <p>18 JRB does not have a claim at all against SGM</p> <p>19 for payment of those services?</p> <p>20 A. Not based on unjust enrichment --</p> <p>21 Q. What would the claim be?</p> <p>22 A. -- but based on agency.</p> <p>23 It would be -- under agency and the Mexican</p> <p>24 law and Federal Civil Code and the commercial code,</p> <p>25 there are provisions that talk about the obligation of</p>

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<p style="text-align: right;">Page 134</p> <p>1 a principal to compensate the agent and reimburse the</p> <p>2 agent. So when those provisions of express</p> <p>3 contractual duty exist, you don't reach implied</p> <p>4 contractual duties like unjust enrichment. Same as</p> <p>5 under Texas law.</p> <p>6 MR. SOTO: Pass the witness. Thank you.</p> <p>7 THE WITNESS: Pass the witness?</p> <p>8 MR. RUFTY: No further questions. Thank</p> <p>9 you.</p> <p>10 (Discussion off record.)</p> <p>11 FURTHER EXAMINATION</p> <p>12 BY MR. RUFTY:</p> <p>13 Q. You mentioned a moment ago that SGM would be</p> <p>14 a beneficiary of services provided.</p> <p>15 In what sense would the vessel owner be a</p> <p>16 beneficiary as well? In other words, better question</p> <p>17 is this: You mentioned that one thing which you're</p> <p>18 prepared to say today is that clearly Marfield would</p> <p>19 be a beneficiary. Please explain.</p> <p>20 A. Okay. Again, I'm not making a factual</p> <p>21 determination.</p> <p>22 Q. Sure.</p> <p>23 A. I'm telling you what the law provides.</p> <p>24 Article 1882 of the Federal Civil Code of</p> <p>25 Mexico provides for unjust enrichment. And it says</p>	<p style="text-align: right;">Page 135</p> <p>1 that when a party unjustly benefits at the expense of</p> <p>2 another, the party who was -- who paid is entitled to</p> <p>3 compensation up to the amount of the enrichment.</p> <p>4 To me, any party that received a benefit from</p> <p>5 what JRB did factually -- which I'm not saying they</p> <p>6 did or didn't -- is a proper debtor under 1882 of the</p> <p>7 Federal Civil Code. And so whether Mayfield [sic]</p> <p>8 benefited factually from what JRB did is a question</p> <p>9 for the court and the witnesses. But just as a matter</p> <p>10 of common sense, it seems to me that if somebody owns</p> <p>11 something as valuable and complex as a vessel like the</p> <p>12 Caballo Maya, and things are done during a fairly good</p> <p>13 period of time that allow the ship to be maintained to</p> <p>14 any degree, that benefits the owner of the vessel.</p> <p>15 MR. RUFTY: Thank you.</p> <p>16 A. I'm not saying that happened here factually,</p> <p>17 I'm just talking about the elements of the claim.</p> <p>18 MR. RUFTY: Thank you.</p> <p>19 MR. SOTO: I'm afraid I have a follow-up</p> <p>20 question. Is that okay?</p> <p>21 MR. RUFTY: Sure.</p> <p>22 FURTHER EXAMINATION</p> <p>23 BY MR. SOTO:</p> <p>24 Q. I want to talk, then, about what -- the</p> <p>25 elements of unjust enrichment. You've analogized it</p>
<p style="text-align: right;">Page 136</p> <p>1 to Texas law a couple times. You said something very</p> <p>2 similar.</p> <p>3 You've talked about the requirement that</p> <p>4 somebody be unjustly enriched, and that is a</p> <p>5 requirement in Texas law as well. For instance, a</p> <p>6 party cannot -- I can't go and paint your house</p> <p>7 against your wishes and without any expectation of</p> <p>8 payment and then sue you for unjust enrichment.</p> <p>9 A. That's right.</p> <p>10 Q. Because there's no unjust element there;</p> <p>11 correct?</p> <p>12 A. Right. I was -- I painted the wrong house.</p> <p>13 Q. So in this situation where Marfield does not</p> <p>14 want SGM to be the depository, is contesting</p> <p>15 ownership, Marfield believes it owns the vessel, is</p> <p>16 asking the court and litigating heavily to have the</p> <p>17 vessel returned to it, can it be said to have been</p> <p>18 unjustly enriched if, against its wishes, SGM is</p> <p>19 appointed depository and voluntarily assumes the</p> <p>20 obligation of those expenses? Has Marfield been</p> <p>21 unjustly enriched in that situation?</p> <p>22 A. That's a determination for the finder of</p> <p>23 fact --</p> <p>24 Q. Okay.</p> <p>25 A. -- whether it's the judge or the jury, based</p>	<p style="text-align: right;">Page 137</p> <p>1 on all the circumstances.</p> <p>2 MR. SOTO: Okay. No further questions.</p> <p>3 (Deposition concluded at 1:43 p.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 WITNESS CORRECTIONS AND SIGNATURE</p>	<p>1 SIGNATURE OF WITNESS</p>
<p>2 Please indicate changes on this sheet of paper,</p>	<p>2 I, DAVID LOPEZ, solemnly swear or affirm under the</p>
<p>3 giving the change, page number, line number and reason</p>	<p>3 pains and penalties of perjury that the foregoing</p>
<p>4 for the change. Please sign each page of changes.</p>	<p>4 pages contain a true and correct transcript of the</p>
<p>5 PAGE/LINE CORRECTION REASON FOR CHANGE</p>	<p>5 testimony given by me at the time and place stated</p>
<p>6 _____</p>	<p>6 with the corrections, if any, and the reasons therefor</p>
<p>7 _____</p>	<p>7 noted on the foregoing correction page(s), and that I</p>
<p>8 _____</p>	<p>8 am signing this before a Notary Public</p>
<p>9 _____</p>	<p>9 _____</p>
<p>10 _____</p>	<p>10 DAVID LOPEZ</p>
<p>11 _____</p>	<p>11 STATE OF TEXAS</p>
<p>12 _____</p>	<p>12 COUNTY OF _____</p>
<p>13 _____</p>	<p>13 SUBSCRIBED AND SWORN TO before me by</p>
<p>14 _____</p>	<p>14 DAVID LOPEZ on this, the _____ day of</p>
<p>15 _____</p>	<p>15 _____, 2018</p>
<p>16 _____</p>	<p>16 _____</p>
<p>17 _____</p>	<p>17 Notary Public, State of Texas</p>
<p>18 _____</p>	<p>18 My Commission Expires _____</p>
<p>19 _____</p>	<p>19 Feb 1-265117</p>
<p>20 _____</p>	<p>20 _____</p>
<p>21 _____</p>	<p>21 _____</p>
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David Lopez
April 09, 2018

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WITNESS CORRECTIONS AND SIGNATURE

Please indicate changes on this sheet of paper, giving the change, page number, line number and reason for the change. Please sign each page of changes.

PAGE/LINE	CORRECTION	REASON FOR CHANGE
14/10	change "Mexican" to "Texas"	misstatement or incorrect transcription
15/21	change "interest" to "interests"	incorrect transcription
55/7	change "flushes" to "fleshes"	incorrect transcription
63/1	add quotation mark in front of "with"	" "
63/3	add quotation mark at end of sentence	
63/5	add quotation marks at beginning & end of sentence	
65/1	add quotation mark in front of "with"	
65/2	add quotation mark after "vessel."	
67/16	change "procession" to "possession"	incorrect transcription
87/22	change "expressed" to "express"	" "
98/1	change "is" to "as"	incorrect transcription
98/1	change "." (period) at end of sentence to "," (comma)	
98/2	change "That's" to "that's"	incorrect transcription
108/1	change "66,500,000" to "6,500,000"	incorrect transcription

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April 09, 2018

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S I G N A T U R E O F W I T N E S S

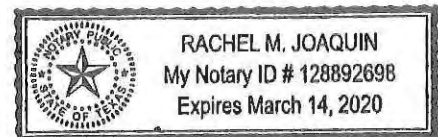
I, DAVID LOPEZ, solemnly swear or affirm under the pains and penalties of perjury that the foregoing pages contain a true and correct transcript of the testimony given by me at the time and place stated with the corrections, if any, and the reasons therefor noted on the foregoing correction page(s), and that I am signing this before a Notary Public.

DAVID LOPEZ

STATE OF T E X A S *

COUNTY OF BEXAR *

SUBSCRIBED AND SWORN TO BEFORE ME BY
DAVID LOPEZ on this, the 20 day of
April, 2018.



Rachel M Joaquin
Notary Public, State of Texas

My Commission Expires: March 14, 2020

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LEGAL POSITIONS:

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GIBSON, DUNN & CRUTCHER, Los Angeles, California
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ST. MARY'S UNIVERSITY SCHOOL OF LAW, San Antonio, Texas

Adjunct Professor of Law, Fall 2008, 2009, 2010 & 2012

International Commercial Arbitration Seminar (with Judge John Specia)

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Full Professor of Law with tenure, June 1997 to May 2003

Associate Professor of Law, August 1993 to May 1997

UNIVERSITY OF CALIFORNIA - DAVIS, Davis, California

August 1997 to May 1998

Visiting Professor of Law

BAYLOR LAW SCHOOL, Study Abroad Program in Guadalajara, Jalisco, México

Summer 1996, 1997, 1998, 1999 and 2000

Visiting Professor, Universidad Autónoma de Guadalajara

APPOINTMENTS:

Admissions Committee, U.S. District Court, Western District of Texas (2012-2015 Term)

Advisory Board, Center for U.S. and Mexican Law, University of Houston Law Center
(2012 -)

Appointed by Ambassador Charlene Barshefsky, U.S. Trade Representative, to the Roster of Eligible Binational Panelists under Chapter 19 of the North American Free Trade Agreement (April 1998 – March 2003)

BOOKS AND BOOK CHAPTER:

Co-Author, MEXICAN LAW (together with Professor Stephen Zamora of the University of Houston Law Center and Director José Ramón Cossío Díaz, Professor Leonel Pereznieta Castro, and Professor José Roldán Xopa of the Instituto Tecnológico Autónomo de México) (Oxford University Press 2004)

Co-Author, NAFTA: A PROBLEM ORIENTED COURSEBOOK (together with Professor Ralph Folsom of the University of San Diego School of Law and Professor Michael W. Gordon of the University of Florida College of Law) (West Publishing Co. 2000)

Co-Author, 2000 DOCUMENTS SUPPLEMENT TO NAFTA: A PROBLEM ORIENTED COURSEBOOK (together with Folsom and Gordon) (West Publishing Co. 2000)

Co-Author, *TEACHER'S MANUAL TO ACCOMPANY NAFTA: A PROBLEM ORIENTED COURSEBOOK* (together with Folsom and Gordon) (West Publishing Co. 2000)

Author, *The Legal System of Mexico*, Chapter 3, *MODERN LEGAL SYSTEMS CYCLOPEDIA* (William S. Hein & Co. 2000)

ARTICLES:

Article, *Is Mexico an "Adequate Alternative Forum" for Litigation? The Texas Supreme Court and Fifth Circuit Speak*, 71 TEX. BAR J. 270 (April 2008)

Lead Article, *Dispute Resolution Under NAFTA: Lessons from the Early Experience*, 32 TEX. INT'L L.J. 163 (1997)

Lead Article, *Dispute Resolution Under MERCOSUR from 1991 to 1996: Implications for the Formation of a Free Trade Area of the Americas*, 3 NAFTA LAW & BUS REV. OF THE AMERICAS 3 (Spring 1997)

Article, *Dispute Resolution Under a Free Trade Area of the Americas: The Shape of Things to Come*, 28 U. MIAMI INTER-AM. L. REV. 597 (1997)

Article, *Why Texas Courts are Defenseless Against Frivolous Appeals: A Historical Analysis with Proposals for Reform*, 48 BAYLOR L. REV. 51 (1996)

Note, *Reexamining the Constitutionality of INS Workplace Raids After the Immigration Reform and Control Act of 1986*, 100 HARV. L. REV. 1979 (1987)

PUBLICATION HONORS:

Nominee, Outstanding Law Review Article - 1997, Texas Bar Foundation (for *Dispute Resolution Under NAFTA: Lessons from the Early Experience*)

PROFESSIONAL MEMBERSHIPS:

State Bar of Texas (since 1988)

State Bar of California (since 1990)

Court of Appeals for the Second Circuit (since 2014)

Court of Appeals for the Fifth Circuit (since 2003)

Member, American Bar Association (1993-2008)

Member, Bar Association of the Fifth Federal Circuit (since 2003)

Life Fellow, Texas Bar Foundation

Fellow, San Antonio Bar Foundation

Co-Chair, Subcommittee on NAFTA, American Bar Association (1997 - 2001)

Chair, Section on North American Cooperation, AALS (2001)

Member, National Association of College and University Attorneys (2000-2001)

Chief Coordinator, ABA Conference on "Practicing Law in the Era of NAFTA: Mastering the New Global Marketplace," San Antonio, Texas (March 18-19, 1999)

LECTURES AND PRESENTATIONS:

Speaker, "Jurisdiction and Venue - Where Does the Case Belong?," Advanced Civil Trial Course 2017, State Bar of Texas, San Antonio, Texas (July 21, 2017)

LECTURES AND PRESENTATIONS (cont.):

- Speaker, "Pitfalls and Opportunities for the (Conscientious) Lawyer in Managing Cross-Border Legal Disputes," International Law Section of the San Antonio Bar Association, San Antonio, Texas (Feb. 10, 2017)
- Speaker, "Enforcing Foreign Judgments in Texas Courts and Citation of Process upon Foreign Persons," San Antonio Bar Association, San Antonio, TX (Aug 21, 2014)
- Speaker, "Mexican Law and Legal Research: Overcoming the Challenges," American Ass'n of Law Libraries 2014 Annual Meeting, San Antonio, TX (July 15, 2014)
- Guest Professor, Federal Courts Class of U.S. District Judge Xavier Rodriguez, St. Mary's University Law School, San Antonio, Texas (Feb. 4, 2014)
- Speaker, "Issues Relating to Mexican Law – Plaintiff/Alien," Prosecuting or Defending a Trucking or Auto Accident Case, State Bar of Texas, San Antonio (Oct. 31, 2013)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Sept. 13, 2013)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (May 17, 2013)
- Panelist, "Dealing with Foreign Jurisdictional Property Issues," New Frontiers in Marital Property Law, State Bar of Texas, New Orleans, Louisiana (Oct. 5, 2012)
- Panelist, *En Juicio: XXIV Simposium Internacional de Derecho*, Instituto Tecnológico y de Estudios Superiores de Monterrey, Monterrey, Mexico (Sept. 21, 2012)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (May 18, 2012)
- Speaker, "A Practical Guide to Collecting Debts in Mexico," Mastering the Art of Collecting Debts and Judgments, University of Texas School of Law, Austin, Texas (Sept. 2, 2011)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Sept. 17, 2010)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (May 14, 2010)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Feb. 5, 2010)
- Speaker, "What Texas Lawyers Need to Know About Mexican Law," San Antonio Bar Association Int'l Law Section, San Antonio, Texas (Dec. 11, 2009)
- Panelist, "The Application of Mexican Law by U.S. Judges in Cross-Border Disputes," U.S.-Mexico Bar Association Annual Meeting, San Diego, California (Nov. 12, 2009)
- Speaker, "Spoliation and Legal Malpractice," Business Torts Institute, State Bar of Texas, Dallas, Texas (Oct. 30, 2009)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Sept. 18, 2009)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (May 8, 2009)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Feb. 6, 2009)
- Speaker, "What Texas Lawyers Need to Know About Mexican Law," Austin Bar Association, Austin, Texas (June 20, 2008)

LECTURES AND PRESENTATIONS (cont.):

- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (May 9, 2008)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Feb. 1, 2008)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Feb. 2, 2007)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Sept. 8, 2006)
- Speaker, Supreme Court Review: The 2004-2005 Term, American Public Power Association Legal Seminar, San Antonio, Texas (Nov. 13, 2005)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (Sept. 16, 2005)
- Speaker, "Federal Rules and Local Rules of the Western District of Texas, San Antonio Division," Federal Court Practice Seminar, San Antonio, Texas (March 4, 2005)
- Guest Lecturer, "Comparison of the U.S. and Mexican Legal Systems," Baylor Law School Study Abroad Program, Guadalajara, Jalisco, México (August 15, 2003)
- Guest Lecturer, "Intellectual Property Protection Under NAFTA," Monterrey Tec Video-conference Course (*Curso de Tratados Comerciales Internacionales de México*), from San Antonio, Texas (April 25, 2001)
- "NAFTA: Emerging Issues," Annual Meeting of the State Bar of Texas, Hispanic Issues Section, San Antonio, Texas (June 24, 2000)
- "NAFTA - Recent Developments," San Antonio Bar Association International Law Section, San Antonio, Texas (June 9, 2000)
- Guest Lecturer, "NAFTA," Mexican Legal Studies Program, University of Houston Law Center, Mexico City, Mexico (June 6, 2000)
- "Transnational Legal Practice Under NAFTA," Association of American Law Schools, Annual Meeting, Washington, D.C. (Jan. 9, 2000)
- "NAFTA Chapter 11: Resolution of Investments Disputes," Association of American Law Schools, Annual Meeting, Washington, D.C. (Jan. 8, 2000)
- "Introducción al Sistema Legal de los Estados Unidos," Summer U.S. Law Program for Mexican Judges, U.T. Law School, Austin, Texas (July 19, 1999)
- "The Mexican Legal System," San Antonio Bar Association International Law Section, San Antonio, Texas (July 9, 1999)
- Presenter & Facilitator, Workshop on Comparative Law Issues, U.S.-Mexico Judicial Exchange Program Border Conference, San Antonio, Texas (June 18, 1999)
- Law Class Simulation, Transformational Youth Leadership Seminar, Office of Community Devel., Texas A&M University, San Antonio, Texas (June 11, 1999)
- "Introducción al Sistema de Derecho de los Estados Unidos," Consejo de la Judicatura Federal (Federal Judicial Council), Veracruz, Mexico (May 7, 1999)
- "NAFTA," Capstone Course, China External Trade Agency - International Trade Institute, University of the Incarnate Word, San Antonio, Texas (March 25, 1999)
- "Derecho Procesal Civil Federal," Programa de Derecho Angloamericano para Abogados Iberoamericanos, Univ. of Texas School of Law, Austin, Texas (July 21, 1998)
- "Las Reformas al Poder Judicial Mexicano y el Sistema Judicial de los Estados Unidos," Departamento de Derecho, Universidad de Monterrey, San Pedro Garza García, N.L., México (April 17, 1998)

LECTURES AND PRESENTATIONS (cont.):

- Guest Lecturer, "International Trade Dispute Resolution," Harvard Law School, Cambridge, Massachusetts (January 15-16, 1998)
- "Sistemas de Derecho Contemporáneo: México-Estados Unidos," Instituto de la Judicatura Federal, México City, México (November 7, 1997)
- "Introducción al Sistema Legal de los Estados Unidos," Programa de Derecho Angloamericano para Abogados Iberoamericanos, University of Texas School of Law, Austin, Texas (July 21, 1997)
- "El Derecho de Agravios ('Torts') en los Estados Unidos," Centro de Estudios de Actualización Jurídica, México City, México (May 16, 1997)
- "Frivolous Appeals Under the New Texas Rules of Appellate Procedure," Appellate Practice Before the Fourth and Thirteenth Courts of Appeals, San Antonio & Corpus Christi Bar Associations, Corpus Christi, Texas (May 9, 1997)
- "NAFTA and Intellectual Property in Mexico," Spring Conference, International Anti-Counterfeiting Coalition, Austin, Texas (May 8, 1997)
- "Ethics for the Appellate Lawyer: Frivolous Appeals," Telephone Seminar, State Bar of Texas, San Antonio, Texas (April 18, 1997)
- "Toward a Free Trade Area of the Americas," Monthly Meeting of the International Law Section, San Antonio Bar Association, San Antonio, Texas (April 11, 1997)
- "Cuestiones Constitucionales: Estados Unidos," Pt. II, Universidad Panamericana, Guadalajara, Jalisco, México (March 13, 1997)
- "Frivolous Appeals," 10th Annual Advanced Civil Appellate Practice Course, State Bar of Texas, Austin, Texas (September 12, 1996)
- "How to Avoid and Respond to Frivolous Appeals," Monthly Meeting of the Appellate Law Section, San Antonio Bar Association, San Antonio, Texas (July 26, 1996)
- "Introducción al Sistema Legal de los Estados Unidos e Investigación Legal," Derecho Angloamericano para Abogados de Latino América, University of Texas School of Law, Austin, Texas (July 15, 1996)
- "Comparison of Civil Law and Common Law Systems," Universidad de Anáhuac, México City, México (March 9, 1995)
- "The Common Law Tradition," Universidad de Monterrey, Garza García, N.L., México (January 13, 1994)

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- Associate Dean for Administration (1999-2001)
- Director of Foreign Program Development (1998-2001)
- Member, University Task Force on Distance Learning (1999-2000)
- Member, University Comptroller Search Committee (1999-2000)

COURSES ORIGINATED AND DEVELOPED:

- NAFTA Virtual Reality Seminar 2000 (Spring 2000)
- International Trade Dispute Resolution (Fall 1997)
- North American Legal Systems (Spring 1995, Spring 1996, Spring 1997)
- Seminar on the North American Free Trade Agreement (Spring 1994, Fall 1995)

Mexico City, Guadalajara, Monterrey and Veracruz, Mexico, and Austin and San Antonio, Texas. From 2001 to the present, I have been involved in an international law practice representing Mexican clients in lawsuits pending in the United States and in international arbitration involving issues of Mexican substantive and procedural law, and representing U.S. businesses on matters relating to Mexican law.

- 1.4 From 1997 to 2018, I have served as a testifying expert on Mexican law in 135 cases around the country, not including this case. This has included cases in the United States Court of Appeals for the Fifth Circuit and United States District Courts for the:

- Southern District of Alabama,
- Central District of California,
- Southern District of California,
- District of Colorado,
- Eastern District of Louisiana,
- Eastern District of Michigan,
- Western District of Michigan,
- District of Nevada,
- Southern District of New York,
- Western District of New York,
- Northern District of Oklahoma,
- Eastern District of Pennsylvania,
- Northern District of Texas,
- Southern District of Texas (Corpus Christi, Galveston, Houston, Laredo, McAllen and Victoria Divisions),
- Western District of Texas (Del Rio, El Paso, Midland-Odessa and San Antonio Divisions), and
- Western District of Washington.

I have testified as an expert on Mexican law in state courts and arbitral proceedings in:

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- Pennsylvania, and
- Texas (Aransas, Bexar, Cameron, Dallas, El Paso, Harris, Hidalgo, Jefferson, Maverick, Montgomery, Parker, Starr, Tarrant, Travis, Val Verde, Webb and Wilson counties).

I have provided expert testimony on Mexican law on behalf of the United States of America and former Attorney General Lorreta Lynch; on behalf of major institutions, such as the Archdiocese of Los Angeles; on behalf of major companies, such as Aeromexico, Daimler Chrysler, Bell Helicopter, Alcoa Fujikura, Nissan, Siemens Power Corporation, Goodrich Corporation, UPS, Sherwin-Williams and Halliburton Energy Services; and on behalf of many individuals and small companies, including Mexican Boxer Saul "Canelo" Alvarez.

Since 1997, I have been retained as a Mexican law expert by lawyers from Mexico, Canada and Scotland as well as from California, Colorado, Florida, Georgia, Illinois, Louisiana, Minnesota, New York, Oklahoma, Pennsylvania, Texas, Washington and Washington, D.C.

I have served as a consulting expert on Mexican law on hundreds of matters over the years.

- 1.5 I have been asked to opine on Mexican law relating to maritime liens that is relevant to this proceeding.
- 1.6 In performing the foregoing task and formulating opinions on this matter, I have relied on my general familiarity with Mexican law and Mexico's legal system. I have consulted the sources of Mexican law cited below. In addition, I have reviewed case-specific materials, including the following:

- Plaintiff's Verified Original Complaint (June 19, 2017),
- Defendant's Motion to Vacate Seizure and Request for Damages for Wrongful Arrest (Aug. 14, 2017),
- Declaration of Francisco de Jesús Riveros Garcia (Aug. 13, 2017),
- JRB's Memorandum Opposing Marfield's Motion to Vacate Arrest,
- Order Vacating Arrest of Vessel (Oct. 13, 2017),
- Unsworn Declaration of Omar Olvera de Luna (June 19, 2017),
- Unsworn Declaration of Omar Olvera de Luna (Sept. 15, 2017),
- Request by Shipping Group Mexico, S.A. de C.V. to the Attorney General of Mexico for removal of attachment on the Caballo Maya (May 29, 2015),
- Letter from Office of the Attorney General of Mexico to Lic. Oscar Israel Garcia Cordova (July 3, 2015),
- various invoices (dated Aug. 2015 – July 2016),
- various wire transfer confirmations, and
- Transcript of Hearing on Motion to Vacate Seizure (Oct. 4, 2017).

The conclusions that follow assume that these documents are authentic, that they accurately portray developments in this case, and that the copies of them in my possession are true and complete. I reserve the right to expand or modify my opinions in this matter based on additional case materials presented to me in the future.

- 1.7 Based on my review of case materials and information provided to me by counsel, I assume the following facts:

- (a) In 2014, the Mexican government confiscated the vessel M/V Caballo Maya, an ocean-going cargo ship, pursuant to Mexican criminal law in connection with an investigation relating to Oceanografia, S.A. de C.V.
- (b) In May 2015, Shipping Group Mexico, S.A. de C.V. ("SGM"), through its legal representative Oscar Israel Garcia Cordova ("Mr. Garcia"), requested that the Attorney General of Mexico lift the attachment of the vessel and release it to SGM.
- (c) On July 3, 2015, the Attorney General of Mexico issued Executive Order A/011/00 appointing Mr. Garcia as legal representative of SGM as bailee ("*depositario*") of the Caballo Maya and ordering SGM to maintain the vessel in good condition until its custody of the vessel was terminated.
- (d) Also in July 2015, SGM engaged Inmobiliaria JRB, S.A. de C.V. ("JRB"), a Mexican commercial entity, to contract and arrange for the provision of services and supplies to maintain the vessel on SGM's behalf, as required by the Executive Order of the Attorney General's Office. JRB is a full-service company that provides marine services, both directly and through vendors.
- (e) From 2015 to 2017, JRB spent 17,030,745.57 pesos (approximately US\$1,065,00.00) to provide various marine supplies and services, either directly or through vendors, for the benefit of the Caballo Maya. Those supplies and services included marine gas oil, diesel, mooring, towing, potable water, maritime advisory services, spare parts, garbage collection and payment of salaries to the crew.

From July 2015 to July 2016, JRB incurred and paid over 6,500,000 pesos in crew salaries.

Between October 2015 and April 2016, JRB incurred and paid over 200,000 pesos for pilotage, mooring, towing and other port services.
- (f) In February 2017, Executive Order A/011/00 was terminated and the Caballo Maya was released to Marfield LTD, Inc. ("Marfield").
- (g) On June 19, 2017, while the Caballo Maya was docked in Galveston, Texas, JRB initiated this action to recover the amount spent on marine supplies and services for the Caballo Maya, alleging that it possesses a maritime lien under Mexican law against the vessel in that amount.

II. The Mexican Legal System Generally

- 2.1 **Structure.** Mexican government operates according to a federal structure. The federal government maintains a court system with its own body of jurisdictional, procedural and evidentiary rules as do each of the 32 Mexican states (the Federal District of Mexico recently was dissolved and Mexico City was made the country's thirty-second state). In addition, there exists in Mexico a body of federal substantive law and a separate body of

substantive law in each of the 32 states.

- 2.2 Sources of Mexican law. There are a variety of sources of law in the Mexican legal system, including constitutions, statutes, codes, official norms, regulations and judicial rulings. *See* Stephen Zamora et al., Mexican Law 77-94 (2004). Not all of those sources of law are of equal weight or preeminence; rather, a hierarchy of law exists in the Mexican legal system that dictates the relative importance and ordering of the various sources of law. *See id.* at 94-101.
- 2.3 The single most important source of law in Mexico is the Mexican Constitution of 1917 (*Constitución Política de los Estados Unidos Mexicanos*). In Mexico's hierarchy of legal sources, the federal Constitution dominates all other laws. Like the Constitution of the United States, the Mexican Constitution contains a Supremacy Clause that renders Mexican federal law supreme over state law. Article 133 of the Constitution states:

This Constitution, the Laws enacted by Congress pursuant thereto and all Treaties that are in accordance therewith, made or which shall be made by the President of the Republic with the Senate's approval, shall be the Supreme Law of the Union. The judges in every State shall be bound by said Constitution, Laws and Treaties, notwithstanding anything to the contrary in the constitutions or laws of the States.¹
- 2.4 Statutes passed by Mexican legislative bodies are an important body of law in the Mexican legal system. *See Zamora, supra*, at 80.
- 2.5 Because Mexico is a Civil Law country, codes play a primary role in defining the relative legal rights and obligations of parties. Codes are unitary works that attempt to integrate all norms of a distinct branch of law in a systematic, comprehensive, organized and logical manner. Mexico has distinct codes to regulate civil matters, criminal matters, commerce, tax matters, civil procedure and criminal procedure. The federal government and each of the 32 Mexican states possess separate sets of codes. For the most part, state codes parallel the provisions and language of the federal codes.
- 2.6 Among Mexican codes, none is more central than the civil code. The *Código Civil Federal* ("Federal Civil Code") governs throughout the country in federal matters.
- 2.7 Mexican civil codes cover all matters in the civil legal realm, including the civil status of individuals, family law, assets, property, succession, contracts and other forms of civil obligations. Mexican civil codes do not provide for a series of torts like those found in Common Law jurisdictions; rather, rules concerning civil liability between private parties are set forth in the portion of the civil codes titled "Obligations" (*De las Obligaciones*). The law of obligations encompasses not only tort theories but also contract and quasi-contract theories of legal duty.

¹ Copies of the Mexican law provisions cited in this Declaration are set forth in **Exhibit 2**.

III. Mexican Maritime Law

- 3.1 As probably is true in most countries, in Mexico maritime matters are governed by a combination of constitutional law, international treaty, federal codes, federal statutes and federal regulations.
- 3.2 Constitutional provisions. Article 73 of the Constitution confers on the Mexican Congress the power to legislate in matters of commerce, hydrocarbons and maritime law. Const., Art. 73(X) & (XIII). By virtue of Mexico's Supremacy Clause, federal law concerning these matters controls to the exclusion of state law. Const., Art. 133.
- 3.3 Federal Maritime Commerce Law. The Maritime Commerce Law (*Ley de Navegación y Comercio Marítimos*) of June 2006 is the statute that regulates Mexican waterways, navigation and services performed therein, as well as acts, events and goods relating to maritime commerce. Maritime Commerce Law ("MCL"), Art. 1.

"Maritime commerce" is defined as activities undertaken by means of the commercial and maritime exploitation of vessels and naval devices for the purpose of transporting persons, goods or things, or of performing activities of exploration, exploitation or capture of natural resources, construction or recreation in an aquatic environment. *Id.*, Art. 2(III). "Vessels" are defined as all constructed items designed to navigate in or under navigable waterways. *Id.*, Art. 2(IV). "Navigable waterways" are defined to include Mexico's territorial sea and Exclusive Economic Zone. *Id.*, Art. 3(a).

The Maritime Commerce Law provides that everything related to Mexican navigable waterways, maritime commerce in Mexico's marine zones, and in general all acts and events that arise therein are within Mexican federal jurisdiction. *Id.*, Art. 4(¶ 1). Foreign vessels found in Mexican waterways are subject to the jurisdiction of and compliance with Mexican law by the mere fact of their presence therein. *Id.*, Art. 5(¶ 2).

Absent an express provision in the Maritime Commerce Law, its regulations or international treaty, other bodies of Mexican law including the Commercial Code (*Código de Comercio*), Federal Civil Code, Federal Code of Civil Procedure (*Código de Procedimientos Civiles*), Federal Labor Law (*Ley Federal del Trabajo*) and international maritime custom and usage (*los usos y las cosumbres marítimas internacionales*) shall apply to maritime commerce in a supplementary fashion. *Id.*, Art. 6.

IV. Maritime Liens Under Mexican Law

- 4.1 Title Four, Chapter V of the Maritime Commerce Law is titled "About Maritime Privileges" (*De Los Privilegios Marítimos*) and contains ten provisions, Articles 91 through 100. Of these, Articles 91, 93, 94, 97 and 100(¶ 2) appear to be relevant to this case.

Article 91 states:

Maritime privileges grant to the privileged creditor the right to be preferred in payment ahead of other creditors in accordance with that provided for in the present Law, according to the following order:

- I. Salaries and other amounts due to the crew of the vessel, by virtue of their enrolling on board, including costs of repatriation and social security contributions payable on their behalf;*
- II. Claims arising from indemnification for causing death or bodily injury on land or water, in direct relation with the operation of the vessel;*
- III. Claims for the reward for the salvage of the vessel;*
- IV. Claims charged to the vessel arising from the use of port infrastructure, maritime signaling, inland waterways and pilotage; and*
- V. Claims arising from indemnification for extracontractual fault, by reason of the loss or material damage caused by the operation of the vessel other than loss of or damage to cargo, containers and passengers' effects transported aboard the vessel.*

The maritime privileges arising from the last trip shall be preferred to those arising from previous trips.

MCL, Art. 91. Article 93 states:

Maritime privileges on vessels shall be extinguished by the passage of one year from the time they become enforceable, unless an action directed at the attachment or detention of the vessel has been exercised.

The termination of the privilege does not imply that of the obligation or indemnification; these shall be extinguished in the form and terms set out in the applicable legislation.²

Id., Art. 93. Article 94 states:

The assignment or subrogation of a claim or indemnification guaranteed with a maritime privilege, simultaneously produces the assignment or subrogation of the corresponding maritime privilege.

² The second paragraph of Article 93, which provides that termination of the maritime lien does not necessarily mean that the claim underlying the lien also terminates, supports my view, more fully explained below, that the existence of a maritime lien under Mexican law is a two-step process that begins with the existence of a claim or obligation in favor a "creditor."

Id., Art. 94. Article 97 states:

Registration of maritime privileges shall not be obligatory, but judicial resolutions that establish an obligation in favor of the creditor shall be susceptible to registration in the National Maritime Public Registry.

Id., Art. 97. Article 100(¶ 2) states:

The privileged maritime obligations will give rise to the execution for their total amount, on the vessel, freight or cargo subject to payment thereof. Therefore, at the request of the plaintiff the attachment will be decreed or the retention will be confirmed upon admitting the complaint. The mortgage creditor may pay or take charge of the privileged obligations that precede it, in which case the mortgage will be in the first rank.

Id., Art. 100(¶ 2).

- 4.2 Pursuant to these provisions, the existence of a maritime privilege under Mexican law is a two-step process. The first step in the process requires that a person must be a “creditor,” meaning that the person must have a legal right to compensation vis-à-vis a vessel, owner, charterer, manager or operator thereof. For example, a creditor may be entitled to compensation for labor provided as a member of the crew of the vessel, for death or injury arising out of operation of the vessel, as a reward for salvage of the vessel or for the vessel’s use of port infrastructure.

Whether a person is a “creditor” is determined by substantive law outside of Chapter V of the Maritime Commerce Law, such as Mexico’s Commercial Code, Federal Civil Code, a Mexican statute or regulation or even foreign substantive law.

- 4.3 In this case, SGM was the bailee for the Caballo Maya appointed by Mexico’s Attorney General and was ordered to maintain the vessel in good condition. The apparently valid Executive Order of the Attorney General was the legal basis for SGM’s duty to provide supplies and services to the Caballo Maya to keep it in good condition.

SGM in turn engaged JRB to provide services and supplies to maintain the vessel in accordance with the Executive Order. Although there was no written agency agreement between SGM and JRB, Mexico’s Commercial Code permits a commercial agency (*i.e.*, an agency between merchants) to be created by oral designation. Commercial Code, Art. 274.

JRB in turn arranged for the provision of services and supplies to the Caballo Maya for the time it was detained pursuant to the Executive Order. Although Mexican law does not permit a commercial agent to delegate its agency absent authorization by the principal, a commercial agent can employ others to perform subordinate matters. *Id.*, Art. 280. Further, Mexican law permits a commercial agent to perform its agency either in its own name or in the name of its principal. *Id.*, Art. 283. Here, the fact that JRB purchased

supplies and services directly in its own name and not in SGM's name is permissible under Mexican law.

The July 2015 Executive Order was based on the Mexican Attorney General's authority to secure instruments, objects or products of crime pursuant to Mexico's Federal Code of Criminal Procedure. *See* Executive Order, at 1; Federal Code of Criminal Procedure (*Código Federal de Procedimientos Penales*), Art. 181.³ When an object is secured by placing it temporarily in the possession of a third party, a bailment relationship is created under Mexican law. *See id.*, Art. 182-C. Under the Commercial Code, a bailment is "commercial" – and therefore governed by the terms of the Commercial Code – if the subject matter of the bailment is a commercial object. Commercial Code, Art. 332. Here, the Caballo Maya clearly is a commercial object.

Under the Commercial Code, a bailee (*depositario*) is entitled to compensation for expenses incurred in connection with the bailment. *Id.*, Art. 333. Absent a contract, compensation to the bailee shall be in accordance with the custom and usage of the place where the bailment is made. *Id.* Thus, to the extent it incurred expenses in connection with the deposit of the vessel, SGM, the bailee, was entitled to reimbursement in accordance with the customs of the place of bailment, here Ciudad del Carmen, Campeche, Mexico.

JRB has the right to seek compensation for the amounts paid to maintain the Caballo Mayo based on subrogation and payment provisions set forth in the Federal Civil Code.⁴ Article 2058 of the Civil Code provides that subrogation occurs by operation of law and without need of any declaration by the interested parties if the person who pays off a debt has a legal interest in performance of the obligation. FCC, Art. 2058(II). By virtue of its legal duty to act as SGM's agent with respect to the maintenance of the vessel, JRB had a legal interest in the performance of SGM's obligation to comply with the Executive Order by maintaining the vessel in good condition and was legally authorized to make payment. FCC, Art. 2065.

Under the Civil Code, "payment" is defined as delivery of the amount due. FCC, Art. 2062. JRB possesses records showing that it ultimately paid for all of the relevant services and supplies. Thus, as a matter of law, JRB made payment each time it delivered the amounts due in the subject invoices to the third parties who provided the services and supplies.

Under Mexican law, viewing Marfield as the ultimate "debtor" on the obligations paid by JRB, JRB had no duty to inform Marfield that it was making the payments. FCC, Art.

³ The Federal Code of Criminal Procedure has been replaced by Mexico's National Code of Criminal Procedure (*Código Nacional de Procedimientos Penales*).

⁴ Absent a relevant legal provision in Mexico's Commercial Code, the provisions of the Federal Civil Code apply and supplement the Commercial Code. Commercial Code, Art. 2. The Commercial Code does not have provisions that deal with subrogation and payment and, therefore, it is appropriate to look to the Civil Code for such law.

2067. Moreover, as a matter of Mexican law, JRB was authorized to make those payments against Marfield's wishes. FCC, Art. 2068.

- 4.4 Once the first step is satisfied and a person is a "creditor" vis-à-vis a vessel, owner, charterer, manager or operator thereof, the second step is that the creditor may then be entitled to a maritime privilege under Article 91 and the benefits of such a privilege under Chapter V and means for enforcement or satisfaction of the credit obligation.

As noted above, Article 91 of the Maritime Commerce Law confers on certain creditors a maritime privilege – the right to be preferred in payment over other creditors. For example, a crew member owed salary or a creditor who paid salaries of a vessel's crew is entitled to a maritime privilege superior to all other creditors. MCL, Art. 91(I).

Article 100(¶ 2) of the Maritime Commerce Law grants the holder of a maritime privilege the right to request that a court impose an embargo (attachment) on or order the retention of the subject vessel. MCL, Art. 100(¶ 2).

- 4.5 In this case, as demonstrated by invoices and wire transfer confirmations or other proof of payment, JRB arranged for the crew of the Caballo Maya to be paid salary of over 6,500,000 pesos and in fact paid those amounts. Further, based on such evidence, JRB arranged for and in fact paid for port services for the vessel in excess of 200,000 pesos.

Pursuant to Article 91(I) of the Maritime Commerce Law, JRB possessed a maritime lien with respect to the amounts it paid for crew salaries.

Pursuant to Article 91(IV) of the Maritime Commerce Law, JRB possessed a maritime lien with respect to the amounts it paid for pilotage and other port services.

V. Final Points

- 5.1 My fee for serving as an expert witness in this case on issues relating to Mexican law is \$600.00 per hour. In no event is my expert witness fee contingent upon the substance of opinions rendered by me.
- 5.2 To the best of my knowledge and information, I have testified live as an expert on Mexican law by deposition, in court or in arbitration during the preceding four-year period (January 2014 to January 2018) in the following cases:

Continental Automotive Systems US, Inc. v. HUF North America Automotive Parts Manufacturing Corporation, No. 10-CH-22202, Circuit Court of Cook County, Illinois, County Department – Chancery Division;

Gloria de los Angeles Trevino Ruiz, Individually and on Behalf of Her Minor Child, Angel Gabriel de Jesus Trevino and Armando Ismael Gomez v. Azteca America, Una Vez Mas, LP d/b/a Azteca America, Un Vez Mas McAllen License, LLC, Azteca International Corporation, TV Azteca, S.A.B. de C.V., Patricia Chapoy, and

Publimax, S.A. de C.V., No. C-1027-09-C, 139th District Court, Hidalgo County, Texas;

Leandro Ampudia Rovirosa v. Michelle Vieth Paetau, No. 4:12-CV-01414, U.S. District Court for the Southern District of Texas;

Michelle Berezowsky Gomez v. Pablo Angel Rendon Ojeda, No. 4:12-CV-03496, U.S. District Court for the Southern District of Texas [Houston Division];

Jose de la Rosa Lucio, et al. v. Omar Estrada Adame, et al., No. C-2565-12-I, 398th District Court, Hidalgo County, Texas;

In the Matter of the Marriage of Gloria Araceli Loeza Aceves and Paul James Hudson, No. F-2569-10-B, 93rd District Court, Hidalgo County, Texas;

In re Ruth Villegas Medellin and Carlos Martinez Duncker, No. 2013-D-4946, Circuit Court of Cook County, Illinois, County Department, Domestic Relations Division;

In re the Marriage of Marga Ruth Loaiza and Lorenzo Marquez, No. DS50809, Superior Court of California, County of San Diego;

In the Estate of William F. Trimble, Deceased, No. CIV 13-0523, County Court at Law No. 2, Parker County, Texas;

In the Matter of the Marriage of Susan Elizabeth Ruiz and Matias S. Ruiz, No. 15-04-00198-CVW, 218th District Court, Wilson County, Texas;

Angélica Fuentes Téllez (México) v. Jorge Carlos Vergara Madrigal (México), No. 21077/RD, International Chamber of Commerce, International Court of Arbitration [New York];

Mario Efrain Rosales Barralaga v. Cooper Tire and Rubber Co., et al., No. 2015-03070, 295th District Court, Harris County, Texas; and

In the Matter of the Marriage of Carmen Tarragona Saez and Adrian G. Rosas Solorzano, No. 2014-CI-17095, 285th District Court, Bexar County, Texas.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in San Antonio, Texas on January 17, 2018.



DAVID LOPEZ

PGR

PROCURADURIA GENERAL
DE LA REPUBLICA

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XXXXX
[Seal]

DEPUTY ATTORNEY GENERAL SPECIALIZED IN
ORGANIZED CRIME INVESTIGATION.
UNIT SPECIALIZED IN THE INVESTIGATION OF
OPERATIONS WITH ILLEGAL RESOURCES AND
FALSIFICATION OR ALTERATION OF CURRENCY

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[Seal: {Illegible}]
PEÑA NARVAEZ,
NOTARY PUBLIC No.
11, HUIXQUILUCAN,
MEXICO, UNITED
MEXICAN
REPUBLIC]

NOTIFICATION: CGII/F3/1184/2015

THRESHOLD INQUIRY.
UEIORPIFAM/AP/065/2014

Mexico, Distrito Federal, July 3rd, 2015

OSCAR ISRAEL GARCIA CORDOVA ESQ.
Legal Representative of "SHIPPING GROUP MEXICO, SGM,
Private Equity Company".

XXXXXXXXXXXXXXXXXXXX
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[Signature]

Through this notification, based on Articles 16, 21 and 102, section "A" of the Political Constitution of the United Mexican States; 2 section II, 181, 182, 182-A, 182-L and 208 of the Federal Code of Criminal Procedures; 40 and 41 of the Federal Criminal Code; 1 and 31 of the Federal Law Against Organized Crime; 1 and 4, section A), subsections a), b), c), e), h) and ñ), section B), section b) of the Organic Law of the Attorney General of the Country; 3 section A), section III F) section III and 31 of its Regulation; 1, section I, first paragraph, 2 sections II and VII, 3, 5 first paragraph, 6, 7, 8 and 10 of the Federal Law for the Administration and Alienation of Public Sector Assets, and Agreement A/011/00, issued by the Attorney General in the Country, I inform you of the agreement found on your desk on July second of this year, which says:

RESOLVES

FIRST. The appointment as the depository of the vessel CABALLO MAYA, with the IMO 9453341, Regulatory Sailing Patent number 000081740, of Mr. Oscar Israel Garcia Cordova, Legal Representative of "SHIPPING GROUP MEXICO, SGM, Private Equity Company", under the terms of Article 182 L, which will be in his possession from now on, provided that it doesn't affect the public order due to said possession, with the determinant that he may not alienate or encumber and must keep said vessel in good conditions until the legal destination of the insured asset is decreed.

SECOND. Personally inform of this ministerial agreement to Mr. Oscar Israel Garcia Cordova, Legal Representative of SHIPPING GROUP MEXICO, SGM, Private Equity Company, with the warnings and conditions established in Article 182 L of the Federal Code of Criminal Procedures.

Paseo de la Reforma Avenue No. 75, Colonia Guerrero, Delegacion Cuauhtemoc, Mexico, D.F.
Phone: (55) 53 46 00 00 extension 8184 and 8178. Postal Code 06300
www.pgr.gob.mx

EXHIBIT 3

LOPEZ

April 9, 2018

Reported by:
D. SANDERS, CSR, RDR, CRR, CCR (LA)

Lopez_0430
Executive Order 7.3.15 (Spanish)



PGR

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[Seal]

**DEPUTY ATTORNEY GENERAL SPECIALIZED IN
ORGANIZED CRIME INVESTIGATION.
UNIT SPECIALIZED IN THE INVESTIGATION OF
OPERATIONS WITH ILLEGAL RESOURCES AND
FALSIFICATION OR ALTERATION OF CURRENCY**

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[Seal: (Illegible)]
PEÑA NARVAEZ,
NOTARY PUBLIC No.
11, HUIXQUILUCAN,
MEXICO, UNITED
MEXICAN
REPUBLIC]

THIRD. Issue a notification for the General Director of the Merchant Navy of the Secretariat of Communications and Transportation, so that he may perform the corresponding annotations appointing Mr. Oscar Israel Garcia Cordova, Legal Representative of SHIPPING GROUP MEXICO, SGM, Private Equity Company, as the depository of the vessel CABALLO MAYA, with the IMO **9453341**, Regulatory Sailing Patent number 000081740, according to the terms established in Article 182 L. Said vessel will be in his possession from now.

FOURTH. Issue a notification addressed to the Admiral Secretary of the Armed Marine in Mexico, in order to inform the appointment of Mr. Oscar Israel Garcia Cordova, Legal Representative of SHIPPING GROUP MEXICO, SGM, Private Equity Company, as the depository of the vessel CABALLO MAYA, with the IMO **9453341**, Regulatory Sailing Patent number 000081740, under the terms in Article 182 L. Th vessel will be in his possession from now so that the requested custody of the aforementioned vessel is considered finished.

FIFTH. Issue a notification to the Service of Asset Administration and Alienation so that the corresponding paperwork is performed and to assign a day and time to deliver de CABALLO MAYA vessel, with the IMO **9453341**, Regulatory Sailing Patent number, to Mr. Oscar Israel Garcia Cordova, Legal Representative of SHIPPING GROUP MEXICO, SGM, Private Equity Company, under the terms established in Article 182 L. From this moment, the vessel will be in his possession so that the requested custody of the aforementioned vessel is considered finished.

XXXXXXXXXXXXXXXXXXXX
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[Signature]

This is informed to you for the corresponding legal purposes.

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**SINCERELY,
EFFECTIVE VOTING, NO REELECTION
THIRD ATTORNEY GENERAL, ASSIGNED TO SEIDO**

[Seal: UNITED MEXICAN STATES]
DEPUTY ATTORNEY GENERAL
INVESTIGATION OF ORGANIZED CRIME
UNIT SPECIALIZED IN THE
INVESTIGATION OF OPERATIONS WITH
ILLEGAL RESOURCES AND FALSIFICATION

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
[Signature]

HECTOR HUGO RIOS TORRES



Ccp. Felipe de Jesus Muñoz Vazquez, Deputy Attorney General specialized in Organized Crime Investigation – For your knowledge
Ccp. Sergio Antonio Martinez Escalante. Unit Specialized in the Investigation of Operations with Illegal Resources and Falsification or Alteration of Currency – Same purpose.

Paseo de la Reforma Avenue No. 75, Colonia Guerrero, Delegacion Cuauhtemoc, Mexico, D.F.
Phone: (55) 53 46 00 00 extension 8184 and 8178. Postal Code 06300
www.pgr.gob.mx

Lopez_0431
Executive Order 7.3.15 (Spanish)

PGR

PROCURADURÍA GENERAL
DE LA REPÚBLICA

SUBPROCURADURÍA ESPECIALIZADA EN
INVESTIGACIÓN EN DELINCUENCIA ORGANIZADA
UNIDAD ESPECIALIZADA EN INVESTIGACIÓN DE
OPERACIONES CON RECURSOS DE PROCEDENCIA ILÍCITA Y
FALSIFICACIÓN O ALTERACIÓN DE MONEDA

OFICIO: CGII/F3/1184/2015.

AVERIGUACIÓN PREVIA UEIORPIFAM/AP/065/2014

México, Distrito Federal a 3 de julio de 2015.

LIC. OSCAR ISRAEL GARCIA CORDOVA,
Apoderado Legal de "SHIPPING GROUP MÉXICO, SGM,
Sociedad Anónima Promotora de Inversión de Capital Variable".
Presente.

Por medio del presente oficio, con fundamento en los artículos 16, 21 y 102 apartado "A" de la Constitución Política de los Estados Unidos Mexicanos; 2 fracción II, 181, 182, 182-A, 182-L y 208 del Código Federal de Procedimientos Penales; 40 y 41 del Código Penal Federal; 1 y 31 de la Ley Federal Contra la Delincuencia Organizada; 1 y 4 apartado A) incisos a), b), c), e), h) y ñ), apartado B), inciso b) de la Ley Orgánica de la Procuraduría General de la República; 3 inciso A) fracción III F) fracción III y 31 de su Reglamento; 1, fracción I, primero párrafo, 2 fracciones II y VIII, 3, 5 primer párrafo, 6, 7, 8 y 10 de la Ley Federal para la Administración y Enajenación de Bienes del Sector Público y Acuerdo A/011/00 emitido por el C. Procurador General de la República, le hago de su conocimiento el acuerdo que recayó en su escrito de fecha dos de julio del presente año el cual establece:

RESUELVE

PRIMERO. Se designa como depositario de la embarcación CABALLO MAYA con IMO 9453341, matrícula Patente Reglamentaria de Navegación número 000081740, al C. Oscar Israel García Córdova, Apoderado Legal de "SHIPPING GROUP MÉXICO, SGM, Sociedad Anónima Promotora de Inversión de Capital Variable" en términos del artículo 182 L, la cual quedara desde este momento en posesión del mismo, toda vez que no se afecta el orden público al quedar en posesión del mismo, con la condicionante que no podrán enajenar o gravar y deberá mantener en buenas condiciones la embarcación señalada, hasta el momento en que se decrete el destino legal del bien asegurado:

SEGUNDO. Notifíquese personalmente el presente acuerdo ministerial al C. Oscar Israel García Córdova, Apoderado Legal de "SHIPPING GROUP MÉXICO, SGM, Sociedad Anónima Promotora de Inversión de Capital Variable," con los apercibimientos y condiciones establecidas en el artículo 182 L del Código Federal de Procedimientos Penales.

TERCERO.- Gírese atento oficio al Director General de Marina Mercante de la Secretaría de Comunicaciones y Transportes, con la finalidad de que se realice las anotaciones

Avenida Paseo de la Reforma No. 75, colonia Guerrero, Delegación Cuauhtémoc, México, D.F.
Tel.: (55) 53 46 00 00 extensión 8184 y 8178. C.P. 06300.
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SUBPROCURADURÍA ESPECIALIZADA EN INVESTIGACIÓN EN DELINCUENCIA ORGANIZADA
UNIDAD ESPECIALIZADA EN INVESTIGACIÓN DE OPERACIONES CON RECURSOS DE PROCEDENCIA ILÍCITA Y FALSIFICACIÓN O ALTERACIÓN DE MONEDA



conducentes de que designa como depositario de la embarcación CABALLO MAYA con IMO **9453341**, matricula Patente Reglamentaria de Navegación número 000081740, al C. Oscar Israel Garcia Córdova, Apoderado Legal de SHIPPING GROUP MÉXICO, SGM, Sociedad Anónima Promotora de Inversión de Capital Variable," en términos del artículo 182 L, la cual quedara desde este momento en posesión del mismo.

CUARTO.- Gírese atento oficio al Almirante Secretario de Marina Armada de México, con la finalidad de informar que se designa como depositario de la embarcación CABALLO MAYA con IMO **9453341**, matricula Patente Reglamentaria de Navegación número 000081740, al C. Oscar Israel Garcia Córdova, Apoderado Legal de SHIPPING GROUP MÉXICO, SGM, Sociedad Anónima Promotora de Inversión de Capital Variable", en términos del artículo 182 L, la cual quedara desde este momento en posesión del mismo con la finalidad de que de por terminada la custodia solicitada sobre la embarcación anteriormente señalada.

QUINTO.- Gírese atento oficio al Servicio de Administración y Enajenación de Bienes, con la finalidad de que realice los trámites correspondientes y señale día y hora para la entrega en depositaria de la embarcación CABALLO MAYA con IMO **9453341**, matricula Patente Reglamentaria de Navegación número al C. Oscar Israel Garcia Córdova, Apoderado Legal de SHIPPING GROUP MÉXICO, SGM, Sociedad Anónima Promotora de Inversión de Capital Variable", en términos del artículo 182 L, la cual quedara desde este momento en posesión del mismo con la finalidad de que de por terminada la custodia solicitada sobre la embarcación anteriormente señalada.

Lo que se le hace del conocimiento para los efectos legales correspondientes

ATENTAMENTE
SUPRACIO EFECTIVO. NO REELECCIÓN
RISCALES TRES ADSCRITO A LA SEIDO.

PROCURADURÍA GENERAL DE LA REPÚBLICA
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MRO. HECTOR HUGO RIOS TORRES.

Ccp.- Mtro. Felipe De Jesús Muñoz Vázquez. Subprocurador especializado de Investigación de Delincuencia Organizada.- Para su conocimiento.

Ccp.- Lic. Sergio Antonio Martínez Escalante. Titular de la Unidad Especializada en Investigación de Operaciones con Recursos de Procedencia Ilícita y de Falsificación o Alteración de Moneda.- Mismo fin.

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A.P. UEIORPIFAM/AP/065/2014

**ATTORNEY GENERAL'S OFFICE
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UNIT SPECIALIZED IN THE INVESTIGATION OF OPERATIONS WITH ILLEGAL RESOURCES
AND CURRENCY ALTERATIONS OR FALSIFICATIONS**

**Amparo: 686/2015
Notification: CGII/F3/648/2016
Subject: The aforementioned
Mexico City, May 12th, 2016**

**TENTH DISTRICT JUDGE OF AMPARO IN CRIMINAL MATTERS
MEXICO CITY**

**TENTH DISTRICT JUDGE OF AMPARO
013017
MAY 12TH, 2016 [illegible]
IN CRIMINAL MATTERS
IN MEXICO CITY**

Regarding your notification 37791/2016 from April twenty-fifth, two thousand and sixteen, regarding the writ of amparo 686/2015 promoted by MARFIELD LTD INC., through which you require this authority to, within three days, send all documents related to the claimed action – notification CFII/F3/1184/2015 – in the prior inquiry UEIORPIFAM/AP/065/2014 (an extension was authorized). In recognition of the above, I now send you certified copies of the documents for any applicable legal purposes.

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In consideration of the foregoing, I respectfully ask you:

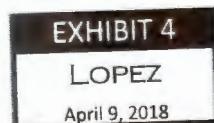
SOLE. To consider me notified through this notification, in my capacity, with which I send you certified copies of the requested documents.

**SINCERELY
"EFFECTIVE SUFFRAGE. NO REELECTION"
AGENT OF THE PUBLIC MINISTRY OF THE COUNTRY**

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[Signature]
GABRIEL CRUZ CRUZ ESQ.

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UNIT SPECIALIZED IN THE INVESTIGATION
OF OPERATIONS WITH ILLEGAL
RESOURCES AND CURRENCY ALTERATIONS
OR FALSIFICATIONS]**



Reported by:
D. SANDERS, CSR, RDR, CRR, CCR (LA)

**Caballo Maya 000061
(Translated)**



AV.PREV.: UEIORPIFAM/AP/065/2014

AGREEMENT OF PROCEEDINGS

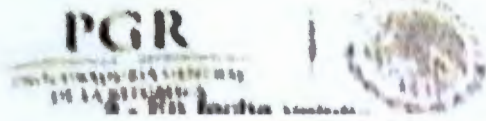
In Mexico City, Distrito Federal , on July third, two thousand and fifteen.

WHEREAS, the status of the certificates and documents that are part of the Prior Inquiry **UEIORPIFAM/AP/065/2014** which investigates facts that are presumably crimes of Operations with Illegal Resources, where the company OCEANOGRAFIA S.A. de C.V. has been used as the instrument of a crime, and any other facts that may result; and

THEREFORE

FIRST. On March nineteenth, two thousand and fourteen, a seizure agreement was pronounced for 62 ships, among which were the ships "CABALLO MAYA" and "CABALLO MARANGO", which had a contractual relationship with OCEANOGRAFIA, through bareboat charter agreements, and on March nineteenth, two thousand and fourteen a notification signed by the Legal Coordination Office of Seized Companies and Commercial Bankruptcy of the Assets Administration and Alienation Service, where I request the seizure of the ships so that they don't disappear and the company is not placed at risk when the work contracts signed with PEMEX EXPLORACION Y PRODUCCION may not operate. Therefore, the following procedures took place:

1. On April twenty-second, 2014, the shipping company "MARFIELD LIMITED INC." submitted an application requesting lifting the seizure of the "CABALLO MAYA" ship, annexing a property certificate for said ship (note: currently, the GGM SHIPPING company, through an indirect writ of amparo, also claims the ship by claiming to have rights over the ship, which stems from a draft of purchase from the company "MARFIELD LIMITED INC.", and until that time, the return has not been agreed upon.



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2. On February twenty-fourth, two thousand and fifteen, the Director of the Legal Consultancy of International Commerce of the Sub-secretariat of Foreign Trade received a request informing of the notification dated December third, two thousand and fourteen, of the companies "Shanara Maritime International S.A." and "Marfield Ltd Inc.", to submit them to arbitration according to Article 13 of the Agreement between the United Mexican States and the Republic of Panama for the reciprocal promotion and protection of investments, where they inform their intention to sue the Mexican government requesting a repair of the damage for an approximate of eighty million American dollars.

3. It is worth mentioning that said ships were judicially seized by the Third District Court of Civil Matters, in the commercial bankruptcy 265/2014, as part of the bankruptcy assets.

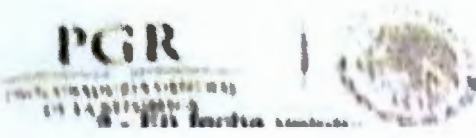
4. On June eleventh, a document by Jose Enrique Castillo Carvallo, Administrative Receiver of the Caballo Marango and Caballo Maya ships was received. Through this document, he informs that, in the aforementioned ships, there is "Coastline" personnel that doesn't belong to the crew and that he has the founded fear that said people might be convincing the crew to take the ships out of national waters. Therefore, he requests the necessary measures are taken for their protection.

5. On June 15th, 2015, Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V." appeared and submitted the documentation to credit the property of the Caballo Maya ship, requesting its return.

6. On June 22nd, 2015, a document by Francisco Riveros Garcia, legal representative of "MARFIELD LIMITED INC and SHANARA MARITIME INTERNATIONAL" was received. The document requested the return of the ships CABALLO MAYA and CABALLO MARANGO, provided that the ships are in bad conditions.

7. On June 23rd, 2015, this Specialized Unit received the notification DGCJCI.511.48.228.15, signed by Carlos Vejar Borrego Esq.,

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General Director of the Ministry of Economy, through which he states the existence of an international arbitration on the "Caballo Maya and Caballo Marango" ships, which were seized from the company Oceanografia, and requesting the return of the ships and the submission of USD\$80,000,000, for damages caused by said seizure.

8. On July second, two thousand and fifteen, a document signed by Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico Sgm S.A. de C.V.", was received. Through this document, he requested the delivery as a depository of the "Caballo Maya" ship, because it is deteriorating, and he wants to give it maintenance to preserve the seized asset in good working conditions.

9. On that same date, Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico Sgm S.A. de C.V.", appeared to ratify each and every part of the document through which he requests the delivery as a depository of the "Caballo Maya" ship so that it can be properly taken care of and so that it can receive maintenance.

WHEREAS

FIRST. That, to preform the depository of the "CABALLO MAYA" ship, it is relevant to establish the legal situation of said ship.

SECOND. That, according to the certificates that are part of this inquiry regarding the CABALLO MAYA ship, the companies "Shipping Group Mexico Sgm S.A. de C.V." and "Marfield Ltd. Inc." submitted the following writs of amparo.

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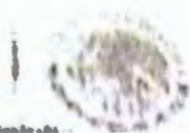
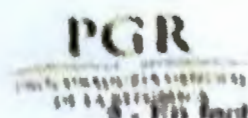
814/2014	04/25/2014	SECOND DISTRICT COURT IN THE STATE OF CAMPECHE	MARFIEL LTD	SEIZURE AGREEMENT FOR THE CABALLO MAYA AND LACK OF NOTIFICATION	DENIED	DISMISSED (TO BE RESOLVED, WHICH WAS LODGED EXTEMPO-RANEOUSLY)	REVIEW	PENDING RESOLUTION (ADMISSION 03/12/15)
1190/2014	12/05/2014	EIGHT DISTRICT COURT OF AMPARO IN CRIMINAL MATTERS IN THE FD	MARFIEL LTD	DENIAL TO THE RETURN OF CABALLO MAYA	DENIED	NOT APPLICABLE	NOT APPLICABLE	PENDING CITATION OF INTERESTED THIRD PARTY
1473/2014	11/03/2014	FIRST DISTRICT COURT IN THE STATE OF CAMPECHE	SHIPPING GROUP	SEIZURE OF CABALLO MAYA, LACK OF NOTIFICATION AND ABANDONMENT AGREEMENT NOTE: THE LACK OF NOTIFICATION AND ABANDONMENT ARE NEGATIVE	GRANTED FOR REPEAL OF SUPERIOR NOTIFICATION 08/12/2014	DISMISSED (TO BE RESOLVED, WHICH WAS LODGED EXTEMPO-RANEOUSLY)	REVIEW	PENDING RESOLUTION (ADMISSION 04/14/2015)

THIRD. Regarding the documentation submitted before this Corporate Representative, "Shipping Group Mexico Sgm S.A. de C.V." and "Marfield Ltd. Inc.", submitted the following:

- **DOCUMENTATION SUBMITTED BY "SHIPPING GROUP MEXICO SGM S.A. DE C.V." TO RETURN THE CABALLO MAYA SHIP.**
 1. Certified copy of the purchase agreement dated March 18th, 2011, signed between the company Marfield Ltd. Inc. as a seller and my client as a buyer, regarding the ship called Caballo Maya, performed under the denomination of "Memorandum of Agreement", under the 1993 sale format adopted by the Baltic and International Maritime Council (BIMCO) in 1956, which is kept in English with its appropriate Spanish translation.

**Caballo Maya 000065
(Translated)**

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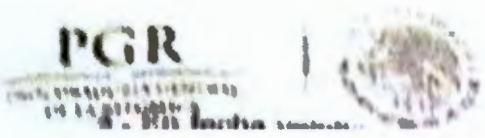
2. Certified copy of the Bank Transfer Records for the payment of the price and/or financing credit for the "Caballo Maya" ship, as mentioned in the Purchase Contract, performed through Actinver S.A. to Coastline Maritime Pte. Ltd., Caterpillar Financial Services and Eksportfinans ASA.
3. Certified copy of the letter dated October 21st, 2011, with the letterhead of MARFIELD LTD INC., addressed by Mr. Terry Highlands, in representation of the company Marfield Ltd. Inc. to Caterpillar Financial Services Asia Pte. Ltd. And Eksportfinans ASA, which is included in English and with a Spanish translation, through which Terry Highlands, representing Marfield Ltd. Inc, notifies said financial institutions that, regarding the credit contract signed by Caterpillar, Eksportfinance and Marfield Ltd. Inc. there is a change of ownership of the "CABALLO MAYA" ship in favor of GGM SHIPPING S.A. DE C.V. Therefore, it is requested that the accredited party and the guarantors are changed, which would ratify the purchase dated March 18th, 2011.
4. Certified copy of the Panama Ship Registration proof, where it is stated that the contract mentioned in section 1 was filed in the record for the "Caballo Maya" ship.
5. Certified copy of the contract dated March 21st, 2011, signed by Oceanografia S.A. DE C.V. and my client, through which the first receives the use and enjoyment of the ship to provide services to PEMEX.

And I request the return of the Caballo Maya ship.

• **DOCUMENTATION SUBMITTED BY "MARFIELD LIMITED INC" FOR THE RETURN OF THE
CABALLO MAYA SHIP**

1. Ship's Regulatory Patent number 000081740.
2. Shipowner Certificate, issued by the company SATRATEGIC Marine of Henderson, Western Australia on April fourteenth, two thousand and ten in favor of MARFIEL LIMITED INC.
3. Contract of Affreightment as a bareboat charter, signed by OCEANOGRAFIA and MARFIELD LIMITED INC., on May fifth, two thousand and eight.

FOURTH. However, based on the certificates that are part of this inquiry, it can be established that the evidence, when analyzed as a whole, can establish a direct relationship between the company OCEANOGRAFIA S.A. de C.V. and the company GGM SHIPPING S.A. DE C.V., provided that there is a business relationship directed directly in the Caballo Maya ship, with which it is possible to see that the company GGM SHIPPING SA DE CV is the owner of the ship.



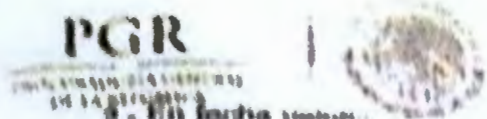
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Also, its body includes the logos of both companies. Whereupon, said evidence must be valued considering the numbers 206, 280, 285, regarding article 286, all of the Federal Code of Criminal Procedures.

By the above, it is necessary to mention that the business relationship between the company CABALLO MAYA S.A. DE C.V. (subsidiary of OCEANOGRAFIA S.A. de C.V.) and the company SHIPPING GROUP MEXICO SGM SAPI DE C.V., provided that the company belongs to the consortium of companies directed by Mr. FRANCISCO JAVIER RODRIGUEZ BORGIO, is born as a project for the acquisition of ships that provide PETROLEOS MEXICANOS of maritime services in general, because said company, in the year two thousand and eleven, **acquired a credit** that had been granted to the company MARFIELD LTD INC by CATERPILLAR FINANCIAL SERVICES ASIA PTE. LTD. And EKSPORTFINANS ASA, whose purpose was the construction of the ship called "CABALLO MAYA". The acquisition of said credit was at first performed by SHIPPING GROUP MEXICO SGM SAPI DE C.V. and then CABALLO MAYA, S.A. DE C.V. (subsidiary of Oceanografia S.A. de C.V.) joined, as 50% co-owners of the rights to the aforementioned ship, and with the same percentage required by the contracted credit.

It is this way that said ship is put to work under the services of OCEANOGRAFIA to develop the services hired by PEMEX EXPLORACION Y PRODUCCION within the PEP contract number 428237849, which was destined for the Assembly of different equipment and structures, structural adaptation and support services for the operation in the P.E.P. facilities in the United Mexican States exclusive area in the Gulf of Mexico. This contractual activity produces legal resources that were put at the disposal of OCEANOGRAFIA S.A. de C.V. by PEMEX EXPLORACION Y PRODUCCION in its different bank accounts.

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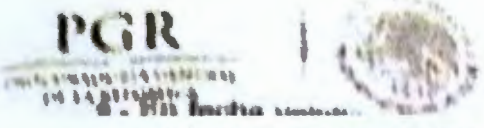
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However, stemming from the co-ownership between Oceanografia S.A. de C.V. and Shipping Group Mexico SGM SAPI de C.V. before GGM Shipping, S.A. de C.V.), performed several transferences to make the payment of the credit amortization by the acquisition of the "Caballo Maya" ship. Therefore, on January thirty-first, two thousand and fourteen, there was a bank transference to the bank account number 5053173 from Citibank New York, Oceanografia S.A. de C.V., the resources were transferred to the account in Banco Mercantil de Norte, S.A., account number 0602787174, which belongs to Shipping Group Mexico SGM SAPI de C.V., for the amount of USD\$ 547,844.00 (FIVE HUNDRED AND FORTY-SEVEN THOUSAND, EIGHT HUNDRED AND FORTY-FOUR US DOLLARS 00/100), for the use and enjoyment that was performed on the "Caballo Maya" ship for services rendered to the company Petroleos Mexicanos by Oceanografia, S.A. de C.V., who was the title holder in the contract included in the parastatal. On that same date, from the Banco Mercantil de Norte, S.A. account number 0602787174, which belongs to Shipping Group Mexico SGM, SAPI de C.V., there was a transfer to the account number 0567624752 from Actinver Casa de Bolsa, S.A. de C.V. for the amount of USD\$ 547,843.99 (FIVE HUNDRED AND FORTY-SEVEN THOUSAND, EIGHT HUNDRED AND FORTY-THREE US DOLLARS 99/100), to make the payment of 50% of the credit amortization contracted with Caterpillar Financial Service Asia, Pte. Ltd. Lastly, according to the invoice number E 53151 dated January 31st, 2014, issued by Actinver Casa de Bolsa, S.A. de C.V. regarding the aforementioned transaction, the amount that Shipping Group Mexico SGM SAPI de C.V. deposited in the bank account was transferred in whole to Caterpillar Financial Services for the amount of USD\$ 547,843.99 (FIVE HUNDRED AND FORTY-SEVEN THOUSAND, EIGHT HUNDRED AND FORTY-THREE US DOLLARS 99/100).

SIXTH. Because of the above, and considering what is established in Articles 20, 21, 40 and 111 of the Law of Maritime Navigation and Trade, which establishes:

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"... **Article 20.** To act as a Mexican operator, it is necessary to:

(...)

IV. Own or possess one or several ships whose total tonnage is a minimum of 500 gross registered tons.

... "

"... **Article 21.** It is presumed that the owner or co-owners of the ship are their shipowners or operators, except when proven otherwise.

The operator who assumes the operation or exploitation of a ship that doesn't belong to his or her property must make a shipowner statement before the maritime authority in the port where it is registered, according to the regulatory stipulations on the matter.

Said statement will be written down on the margin of the registration at the National Maritime Public Registry, and when said quality stops, the cancellation of the annotation must be requested.

This statement may also be provided by the ship's owner.

If the statement is not provided, the owner and the operator will be jointly liable for the obligations stemming from the exploitation of the ship..."

Article 40. Without detriment to what is established in the International Treaties, the operation and exploitation of ships in internal navigation and cabotage will be reserved to Mexican operators with Mexican ships (...)

If there are no Mexican ships available with the same technical conditions or due to a public interest reason, the Ministry will have the power to grant temporary permissions for cabotage navigation, according to the following priority:

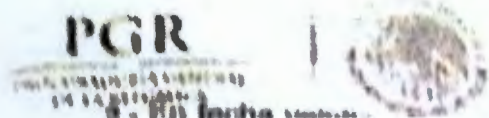
- I. Mexican operator with a foreign ship, under a lease or bareboat charter contract; and
- II. Mexican operator with a foreign ship under any charter contract.

Each temporary cabotage navigation permit will last for three months and no permit for the same ship may be renewed more than seven times.

"... **Article 111.** The following are considered contracts for the use of ships:

- I. Bareboat lease;

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- II. Time charter;
- III. Trip charter;
- IV. Maritime transportation of merchandise;
- V. Maritime transportation of passengers;
- VI. Transport trailer, and
- VII. Any other maritime contract through which a ship or a certain space in it are used.

Therefore, it is necessary to consider that the **bareboat charter** is a type of maritime transportation contract, which is included in the Enactment Decree for the United Nations Agreement regarding the Conditions for the Registration of Ships, which was adopted in the city of Geneva, Switzerland, on February 7th, 1986, which mainly establishes in Articles 2 and 12 -----

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... ARTICLE 2 ...

"Ship" means any self-propelled sea-going vessel used in international seaborne trade for the transport of goods, passengers or both, with the exception of vessels of less than 500 gross registered tons;

"Flag State" means a State whose flag a ship flies and is entitled to fly; (...)

"Operator" means the owner or bareboat charterer, or any other natural or juridical person to whom the responsibilities of the owner or bareboat charterer have been formally assigned;

"Bareboat charter" means a contract for the lease of a ship, for a stipulated period of time, by virtue of which the lessee has complete possession and control of the ship, including the right to appoint the master and crew of the ship, for the duration of the lease;

Article 12 Bareboat charter

1. Subject to the provisions of article 11 and in accordance with its laws and regulations a State may grant the registration and the right to fly its flag to a ship bareboat chartered-in by a charterer in that State, for the period of that charter.
2. When shipowners or charterers in States Parties to this Convention enter into such bareboat charter activities, the conditions of registration contained in this Convention should be fully complied with.

will affect the public order or the social interest. Therefore, it is relevant to agree in favor of the request filed by said person, because if this Corporate Representative omitted to agree to said request, damage could be done to the company Shipping Group Mexico Sgm S.A. de C.V.", and other groups of companies that depend on the CABALLO MAYA ship and the company who owns it, who are at risk of default in the payments and contracts agreed before the ministry's seizure measures for this ship; therefore, in order to prevent material damage and provided that the ship is performing legal activities that don't affect the public order and social interest, it is relevant to grant the depository in favor of Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V.", for the CABALLO MAYA ship to be in his possession so that it may receive the appropriate maintenance and care and so that it may continue performing its





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regular contractual and work activities in order to not affect the negotiation taking place, which has a legal purpose and so that said person may maintain the work positions produced directly and indirectly, serving as support the thesis that corresponds to the Ninth Judicial Journal of the Federation and its XXII Journal, August 2005, Common Matters, Thesis 14o A 63 K, Page 1956, which says:

"... PUBLIC ORDER: IT IS AN UNDETERMINED LEGAL CONCEPT THAT IS UPDATED IN EVERY SPECIFIC CASE, TAKING INTO CONSIDERATION THE MINIMUM SOCIAL COHABITATION RULES. The public order does not constitute a notion that may be configured from a formal declaration contained in a law. On the contrary, it has been a constant criterion of the Supreme Justice Court in the Country, and so the judge is the one who examines its presence in each specific case, in such a way that it is considered an undetermined legal concept with an impossible definition whose content may only be outlined by the circumstances of time and place that prevail at the time in which the valuation takes place. In any case, to give some meaning to it, the judge must consider the essential conditions for the harmonic development of the community. In other words, the decision taken in this specific case may not rest in mere subjective statements, but rather in objective elements that translate the fundamental concerns of the society, always procuring not to obstruct the efficacy of third party's rights. **FOURTH DISTRICT COURT OF ADMINISTRATIVE MATTERS OF THE FIRST CIRCUIT.** Direct amparo 312/2004. Alberto Salmeron Pineda, January 12th, 2005. Unanimity of votes. Reporting Judge, Jesus Antonio Nazar Sevilla. Secretary, Ernesto Gonzalez Gonzalez. Direct amparo 453/2004. Hospital Angeles del Pedregal, S.A. de C.V., February 23rd, 2005. Unanimity of votes. Reporting judge, Jesus Antonio Nazar Sevilla. Secretary, Indira Martinez Fernandez..."

Likewise, taking into consideration what was requested by Jose Enrique Castillo Carvallo, Judicial Depository of the Caballo Marango and Caballo Maya ships, who stated that the aforementioned ships contain "Coastline" personnel who are not part of the crew and he has the founded fear that said people are convincing the crew to take the ships outside of national waters, it is requested that the necessary measures are taken to protect them. It is considered that proceedings must be started to protect the ships, especially the "Caballo Maya" ship.

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OF OPERATIONS
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ALTERATIONS OR
FALSIFICATIONS

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Investigation of Organized Crime**

Unit Specialized in the Investigation of Operations with Illegal
Resources and Currency Alterations or Falsifications

SEVENTH. In the same way, taking into consideration that the company "Shipping Group Mexico Sgm S.A. de C.V., which is dedicated to the acquisition of ships that provide PETROLEOS MEXICANOS of maritime services in general, has enough means to maintain and preserve the ship to prevent the deterioration of the seized asset, it is deemed appropriate to grant the depository requested by the citizen Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V."

Said depository must be developed by considering what is established in the Federal Criminal Procedures Code in Article 182-L, which establishes: "... The seized property may be in the possession of the owner, possessor or any of its occupants, provided that this doesn't affect the social interest or public order. Whoever is in possession of the property may not alienate or encumber the property, and if it produces any income or products, they will be governed by the terms of the Articles 12 and 15 of the Federal Law for the Administration and Alienation of Public Sector Assets..."

Also, in order for the citizen Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V. to correctly develop the depository for which he is responsible, any other depositaries that may be related to the CABALLO MAYA ship are deemed null and void from this moment.

The foregoing is performed because it is necessary for the appropriate integration of this Prior Inquiry, and based on Articles 16, 21 and 102, Section "A" of the Political Constitution of the United Mexican States; 2 section II, 181, 182, 182-A, 182-L and 208 of the Federal Code of Criminal Procedures; 40 and 41 of the Federal Criminal Code; 1 and 31 of the Federal Law Against Organized Crime; 1 and 4, section A), subsections a), b), c), e), h) and ñ), section B), subsection b) of the Organic Law of the Attorney General

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Sub-section A), section III F) section III and 31 of its [Illegible] section I, first paragraph, 2, sections II and VIII, 3, 5, first paragraph, 6, 7, 8 and 10 of the Federal Law for the Administration and Alienation of Public Sector Assets and Agreement A/011/00 issued by the Attorney General of the Country, it must be resolved and it is

RESOLVED

FIRST. The depository of the CABALLO MAYA ship, with the IMO **9453341**, Ship's Regulatory Patent number 000081740, is the citizen Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V.", under the terms of Article 182-L, who from this moment will be in the possession of the ship, provided that this doesn't affect the public order, with the condition that he may not alienate or encumber, and must maintain the aforementioned ship in good conditions until the time in which the legal destination of the seized asset is determined.

SECOND. To personally notify the citizen Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V. of this ministry agreement, with the warnings and conditions established in Article 182 L of the Federal Criminal Procedures Code.

THIRD. To send a notification to the General Director of Merchant Navy of the Ministry of Communications and Transportation so that the corresponding annotations may be performed to appoint the citizen Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V. as the depository of the CABALLO MAYA ship, with the IMO **9453341**, Ship's Regulatory Patent number 000081740, under the terms of Article 182-L, and from this moment, he will be in possession of the ship.

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of it, so that the custody requested over the aforementioned ship may end.

FIFTH. To send a notice to the Service of Administration and Alienation of Assets so that the corresponding proceedings may take place, and so that a day and time may be established to give as depository the ship CABALLO MAYA, with the IMO **9453341**, Ship's Regulatory Patent number 000081740 to the citizen Oscar Israel Garcia Cordova, Legal Representative of "Shipping Group Mexico Sgm S.A. de C.V., according to the terms of Article 182 L. The ship will be in his possession from this moment so that the custody requested over the aforementioned ship may end.

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ALTERATIONS OR
FALSIFICATIONS

IT IS SO ORDERED

IT IS SO AGREED AND SIGNED BY THE UNDERSIGNED ATTORNEY, GABRIEL CRUZ CRUZ, PUBLIC MINISTRY AGENT IN THE FEDERATION, ASSIGNED TO THE UNIT SPECIALIZED IN THE INVESTIGATION OF OPERATIONS WITH ILLEGAL RESOURCES AND CURRENCY ALTERATION OR FALSIFICATION, WHO ACTS LEGALLY WITH TWO WITNESSES, WHO SIGN AND ATTEST.

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WE ATTEST

<p>EYEWITNESS</p> <p>XXXXXXXXXXXXX XXXXXXXXXXXXX [Signature] C. CESAR MEJIA TOME</p>	<p>EYEWITNESS</p> <p>XXXXXXXXXXXXX XXXXXXXXXXXXX [Signature] LUIS FERNANDO GALINDO VERA ESQ.</p>
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A.P. UEIORPIFAM/AP/065/2014

PROCURADURÍA GENERAL DE LA REPÚBLICA.
SUBPROCURADURÍA ESPECIALIZADA EN INVESTIGACIÓN DE DELINCUENCIA ORGANIZADA
UNIDAD ESPECIALIZADA EN INVESTIGACIÓN DE OPERACIONES CON RECURSOS DE PROCEDENCIA ILÍCITA Y DE FALSIFICACIÓN O ALTERACIÓN DE MONEDA.

Amparo: 686/2015
Oficio: CGII/F3/648/2016
Asunto: El que se indica
Ciudad de México, a 12 de mayo de 2016.

C. JUEZ DECIMO DE DISTRITO DE AMPARO EN MATERIA PENAL
EN LA CIUDAD DE MÉXICO
PRESENTE:

En atención a su oficio 37791/2016, de veinticinco de abril de dos mil dieciséis, relativo al juicio de amparo 686/2015, promovido por MARFIELD LTD INC., por medio del cual, requiere a esta autoridad para que en el término de tres días remita todas las actuaciones que guarden relación con el acto reclamado -oficio CGII/F3/1184/2015- dentro de la averiguación previa UEIORPIFAM/AP/065/2014 (se autorizó prorrogar) en mérito de lo anterior, remito a Usted para los efectos legales a que haya lugar, copias certificadas de las constancias de mérito.

Por lo anterior expuesto y fundado, a Usted atentamente pido:

ÚNICO.- Tenerme por presentado en términos del presente oficio, con la calidad que me ostento, con el que remito a Usted copias certificadas de las constancias solicitadas.

ATENTAMENTE
"SUFRAGIO EFECTIVO. NO REELECCIÓN"
AGENTE DEL MINISTERIO PÚBLICO DE LA FEDERACIÓN

LIC. GABRIEL CRUZ CRUZ

PROCURADURÍA GENERAL DE LA REPÚBLICA
SUBPROCURADURÍA ESPECIALIZADA EN
INVESTIGACIÓN DE DELINCUENCIA ORGANIZADA
UNIDAD ESPECIALIZADA EN INVESTIGACIÓN DE
OPERACIONES CON RECURSOS
DE PROCEDENCIA ILÍCITA Y DE FALSIFICACIÓN
O ALTERACIÓN DE MONEDA

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AV.PREV.: UEIORPIFAM/AP/0665/2014

ACUERDO DE DILIGENCIAS

En la ciudad de México, Distrito Federal, a tres de julio de dos mil quince
VISTO, el estado que guardan las constancias y actuaciones que integran la
Averiguación Previa UEIORPIFAM/AP/0665/2014, en la cual se está investigando
hechos presumiblemente constitutivos de delito de Operaciones con Recursos
de Procedencia Ilícita, en la cual se ha utilizado como instrumento del delito la
persona moral OCEANOGRAFIA S.A. de C.V y lo que resulte; y

RESULTANDO

PRIMERO.- En fecha diecinueve de marzo de dos mil catorce, se dictó acuerdo
de aseguramiento de 62 barcos entre ellos las embarcaciones "CABALLO
MAYA" y "CABALLO MARANGO" los cuales mantenían relación contractual
con OCEANOGRAFIA por medio de contratos de fletamento a casco desnudo.
En fecha diecinueve de marzo de dos mil catorce se recibió oficio
de la Coordinadora Jurídica de Empresas Aseguradas y Concursos
del Servicio de Administración y Enajenación de Bienes, en el cual
solicitó el aseguramiento de las embarcaciones con la finalidad de que no
fueran desaparecidas dichas embarcaciones y se colocara en riesgo a la
empresa al no poder operar los contratos de obra que tenía celebrados con
PEMEX EXPLORACIÓN Y PRODUCCIÓN.
Por lo se realizaron entre otras las siguientes diligencias:

1.- En fecha veintidós de abril 2014, se presentó promoción por parte de la
empresa naviera "MARFIELD LIMITED INC.", solicitando el levantamiento del
aseguramiento de la embarcación "CABALLO MAYA", anexando certificado de
propiedad de dicha embarcación. (Nota: actualmente la empresa GGM
SHIPPING, mediante amparo indirecto, también reclama la embarcación al
alegar que tiene derechos sobre la embarcación derivado de una minuta de
compra a la empresa "MARFIELD LIMITED INC."), siendo que hasta este
momento no se ha acordado procedente la devolución.

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DE LA REPÚBLICASubprocuraduría de Investigación y Peritaje
Inteligencia de Delitos y su Prevención

2.- En fecha veinticuatro de febrero de dos mil quince se recibió promoción por parte de la Dirección de Consultoría Jurídica de Comercio Internacional de la Subsecretaría de Comercio Exterior, en el cual informa sobre la notificación de conformidad con el artículo 13 del Acuerdo de las empresas "Shanara Maritime y la República de Panamá para la promoción y protección recíproca de las inversiones, en el cual informan su intención de demandar al gobierno mexicano por la afectación que han sufrido sobre el aseguramiento de sus buques, solicitando una reparación del daño por un aproximado de ochenta millones de dólares americanos.

3.- Cabe señalar que dichas embarcaciones fueron aseguradas judicialmente por el Juzgado Tercero de Distrito en Materia Civil, dentro del concurso mercantil 265/2014, como parte de la masa concursal.

4.- Con fecha once de junio se recibió escrito José Enrique Castillo Carvallo, Depositario Judicial de las embarcaciones Caballo Marango y Caballo Maya, por medio del cual hace del conocimiento que en las embarcaciones antes mencionadas hay personal de "Coastline" las cuales no pertenecen a la tripulación y tiene el temor fundado de que dichas personas estén convenciendo al a tripulación para que saquen las embarcaciones fuera de aguas nacionales por lo que solicita se tomen las medidas necesarias para su protección.

5.- Con fecha 15 de junio del 2015, compareció Oscar Israel Garcia Cordova, Apoderado Legal de "Shipping Group México Sgm S.A de C.V.", quien exhibió la diversa documentación para acreditar la propiedad de Caballo Maya y solicita su devolución.

6.- En fecha 22 de junio del año 2015, se recibió escrito por parte de Francisco Riveros Garcia, representante legal de "MARFIELD LIMITED INC y SHANARA MARITIME INTERNATIONAL", solicitando la devolución de las embarcaciones CABALLO MAYA y CABALLO MARANGO, toda vez que las embarcaciones se encuentran en malas condiciones.

7.- En fecha 23 de junio del 2015, se recibió en esta Unidad Especializada, el oficio DGCJCI.511.48.228.15 signado por el Licenciado Carlos Vejar Borrego,

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Director General de la

Subprocuraduría Especializada en
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existencia de un arbitraje internacional de Economía, con el cual manifiesta la "Caballo Marango", que fueron aseguradas por las embarcaciones "Caballo Maya y solicita la devolución de las embarcaciones a la empresa Oceanografía, y que USD, por los daños ocasionados por dicho aseguramiento

8.- Con fecha dos de julio del año dos mil quince, se recibió escrito signado por el C. Oscar Israel Garcia Cordova, Apoderado Legal de "Shipping Group México Sgm S A de C.V.", por medio del cual solicita la entrega en depositaria de la embarcación "Caballo Maya" debido a que el mismo se está deteriorando y para estar en posibilidad de darle el mejor mantenimiento posible y preservar en buenas condiciones el bien mueble asegurado.

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En la misma fecha compareció el C. Oscar Israel Garcia Cordova, Apoderado Legal de "Shipping Group México Sgm S.A de C.V.", a efecto de ratificar en todas y cada una de sus partes el escrito por medio del cual solicita la entrega en depositaria de la embarcación "Caballo Maya" para su debido cuidado y mantenimiento

CONSIDERANDO

PRIMERO.- Que para realizar la depositaria de la embarcación "CABALLO MAYA" es pertinente establecer la situación jurídica que tienen dicha embarcación.

SEGUNDO.- que de acuerdo con las constancias que integran la presente indagatoria respecto de la embarcación CABALLO MAYA, las empresas "Shipping Group México Sgm S.A de C.V.", y "Marfield Ltd. Inc.", presentaron los siguiente juicios de amparos

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814/2014	26/04/2014	JUZGADO SEGUNDO DE DISTRITO EN EL ESTADO DE CAMPECHE	MARFIEL LTD	ACUERDO DE ASEGURAMIENTO DEL CABALLO MAYA Y FALTA DE NOTIFICACIÓN	NIEGA	SOBRESEE (POR RESOLVER QUE FUE INTERPUESTO EXTEMPORANEAMENTE)	REVISIÓN	PENDIENTE DE RESOLVER (ADMISIÓN 12/03/15)
1190/2014	08/12/2014	JUZGADO OCTAVO DE DISTRITO DE AMPARO EN MATERIA PENAL EN EL DF	MARFIEL LTD	NEGATIVA DEVOLUCIÓN DE CABALLO MAYA	NIEGA	NO APLICA	NO APLICA	SE ENCUENTRA PENDIENTE EL EMPLAZAMIENTO TERCERA INTERESADA
1473/2014	03/11/2014	JUZGADO PRIMERO DE DISTRITO EN EL ESTADO DE CAMPECHE	SHIPPING GROUP	ASEGURAMIENTO DEL CABALLO MAYA, FALTA DE NOTIFICACIÓN Y ACUERDO DE ABANDONO NOTA: SON NEGATIVOS LA FALTA DE NOTIFICACIÓN Y EL ABANDONO	CONCEDE POR REVOCACIÓN DE SUPERIOR NOTIFICACIÓN 12/08/2014	SOBRESEE (POR RESOLVER QUE FUE INTERPUESTO EXTEMPORANEAMENTE)	REVISIÓN	PENDIENTE DE RESOLVER (ADMISIÓN 14/04/2015)

SECRETARÍA DE LA REPÚBLICA
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RECURSOS
Y DE FALSIFICACIÓN
DE MONEDA

TERCERO.- Por lo que respecta a la documentación presentada ante esta Representación Social de la Federación, "Shipping Group México Sgm S.A de C.V.", y "Marfield Ltd. Inc.", presentaron lo siguiente

• **DOCUMENTACIÓN PRESENTADA POR "SHIPPING GROUP MÉXICO SGM S.A DE C.V.", PARA LA DEVOLUCIÓN DE LA EMBARCACIÓN CABALLO MAYA**

1.- Copia certificada del acuerdo de compraventa de fecha 18 de marzo de 2011, celebrado entre la empresa Marfield Ltd Inc. Como vendedor y mi representada como comprador, respecto de la embarcación denominada Caballo Maya, realizado bajo la denominación de "Memorandum del Acuerdo" bajo el formato de venta 1993 adoptado por el consejo Baltico Marítimo Internacional (BIMCO) en 1956, el cual se tiene en inglés con su debida traducción al Español.

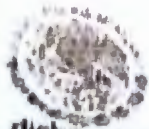
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- 1.- Patente Reglamentaria de Navegación número 000081740.
- 2.- Certificado de Armador emitida por la empresa SATRATEGIC Marine de Henderson, Western Australia, en fecha catorce de abril de dos mil diez, a favor del de la persona MARFIEL LIMITED INC.
- 3.- Contrato de Fletamento a casco desnudo celebrado entre OCEANOGRAFIA y MARFIELD LIMITED INC., en fecha cinco de mayo de dos mil ocho.

Caballo Maya 000066

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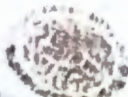


como dueño de dicha embarcación, asimismo en el cuerpo de la misma se pueden apreciar el logotipo de las dos personas morales. Ante lo cual dichos indicios deben de ser valorados tomando en consideración los numerales 206, 280, 285, en relación con el artículo 286, todos del Código Federal de Procedimientos Penales.

Por lo anterior mente expuesto es necesario señalar que la relación comercial que existe entre la persona moral CABALLO MAYA S.A. de C.V. (empresa filial de OCEANOGRAFIA S.A. de C.V.) y la persona moral SHIPPING GROUP MÉXICO SGM SAPI, DE C.V., toda vez que esta empresa perteneciente al consorcio de empresas dirigidas por el señor FRANCISCO JAVIER RODRIGUEZ BORGIO, nace como proyecto para la adquisición de embarcaciones que provean a PETRÓLEOS MEXICANOS de servicios Marítimos en general, es así que dicha empresa en el año dos mil once adquirió un crédito que había sido otorgado a la empresa MARFIELD LTD INC por parte de CATERPILLAR FINANCIAL SERVICES ASIA PTE. LTD. y EKSPORTFINANS ASA, CUENCIA ORGANIZADA fue la construcción de la embarcación denominada "CABALLO MAYA". Es así que la adquisición de dicho crédito fue en un primer momento por parte de SHIPPING GROUP MÉXICO SGM SAPI, DE C.V. y posteriormente se unió CABALLO MAYA, S.A. DE C.V. (empresa filial de Oceanografía, S.A. de C.V.) siendo copropietarios al 50% sobre los derechos de la embarcación señalada, y en el mismo porcentaje obligados del crédito contraído.

Es así que dicha embarcación es puesta a laborar bajo los servicios de OCEANOGRAFIA, para desarrollar los servicios contratados por PEMEX EXPLORACIÓN Y PRODUCCIÓN, dentro del contrato PEP número 428237849, el cual fue destinado para el Montaje de equipos y estructuras diversas, adecuaciones estructurales y servicios de apoyo a la operación en las instalaciones P.E.P. en la zona exclusiva de los Estados Unidos Mexicanos en el Golfo de México; es así que esta actividad contractual es generadora de recursos lícitos que fueron puestos a disposición de OCEANOGRAFIA S.A. de C.V.; por parte de PEMEX EXPLORACIÓN Y PRODUCCIÓN en sus diversas

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cuentas bancarias. Ahora bien derivado de la copropiedad entre Oceanografía, S.A. de C.V. y Shipping Group México SGM SAPI de C.V. (antes GGM Shipping, S.A. de C.V.), realizo diversas transferencia para realizar el pago de la amortización del crédito por la adquisición del barco "Caballo Maya", es así que en fecha treinta y no de enero de dos mil catorce se realizo una transferencia a la cuenta número 5053173, que en citibank New York. Oceanografía, S.A. de C.V. fueron transferidos los recursos a la cuenta en Banco Mercantil de Norte, S.A. número 0602787174 perteneciente a Shipping Group México SGM SAPI de C.V. la cantidad de Usd \$ 547,844.00 (QUINIENTOS CUARENTA Y SIETE MIL OCHOCIENTOS CUARENTA Y CUATRO DÓLARES 00/100 USD) por concepto del uso y aprovechamiento que se realizaba del barco "Caballo Maya" con motivo de servicios prestados a la empresa Petróleos Mexicanos por parte de Oceanografía, S.A. de C.V. quien era la titular del contrato separado con la paraestatal. En esa misma fecha, de la cuenta en Banco Mercantil de Norte, S.A. número 0602787174, perteneciente a Shipping Group México SGM, SAPI de C.V. se realizó la transferencia que tuvo como destino la cuenta de 0567624752 perteneciente a Actínver Casa de Bolsa, S.A. de C.V. por la cantidad de USD \$ 547,843.99 QUINIENTOS CUARENTA Y STETE MIL OCHOCIENTOS CUARENTA Y TRES DÓLARES 99/100 USD) para el efecto de realizar el pago del 50% de la amortización del crédito contraído con Caterpillar Financial Service Asia, Pte. Ltd. Por último, de acuerdo con la factura numero E 53151 de fecha 31 de enero del 2014 emitida por Actínver Casa de Bolsa, S.A. de C.V. relacionada con el movimiento antes detallado, el monto que Shipping Group México SGM SAPI de C.V. depositó en su cuenta bancaria, fue a su vez íntegramente transferido a Caterpillar Financial Services por un monto de Usd \$ 547,843.99 QUINIENTOS CUARENTA Y SIETE MIL OCHOCIENTOS CUARENTA Y TRES DÓLARES 99/100 USD).

SEXTO.- Por lo anteriormente expuesto y tomando en consideración lo establecido en los artículos 20, 21, 40 y 111 de la Ley de Navegación y Comercio Marítimos, el cual en lo conducente establece:

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Subprocurador de Justicia
Procuraduría General de la República

Artículo 20.- Para actuar como naviero mexicano se requiere

IV. Ser propietario o poseedor de una o varias embarcaciones cuyo tonelaje total sea de un mínimo de 500 toneladas de registro bruto.

Artículo 21.- Se presume que el propietario o los copropietarios de la embarcación son sus armadores o navieros, salvo prueba en contrario.

El naviero que asuma la operación o explotación de una embarcación que no sea de su propiedad, deberá hacer declaración de armador ante la autoridad marítima del puerto de su matrícula, de conformidad con las disposiciones reglamentarias al respecto.

Dicha declaración se anotará al margen de su inscripción en el Registro Público Marítimo Nacional y cuando cese esa calidad, deberá solicitarse la cancelación de la anotación. Esta declaración la podrá hacer también el propietario de la embarcación.

Si no se hiciere esa declaración, el propietario y el naviero responderán solidariamente de las obligaciones derivadas de la explotación de la embarcación.

DE LA REPÚBLICA
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EN INVESTIGACIÓN DE
LOS RECURSOS
Y DE FALSIFICACIONES
DE MONEDA

Artículo 40.- Sin perjuicio de lo previsto en los Tratados Internacionales, la operación y explotación de embarcaciones en navegación interior y de cabotaje estará reservada a navieros mexicanos con embarcaciones mexicanas. (...)

En caso de no existir embarcaciones mexicanas disponibles en igualdad de condiciones técnicas o bien cuando impere una causa de interés público, la Secretaría estará facultada para otorgar permisos temporales para navegación de cabotaje, de acuerdo con la siguiente prelación:

I. Naviero mexicano con embarcación extranjera, bajo contrato de arrendamiento o fletamento a casco desnudo; y

II. Naviero mexicano con embarcación extranjera, bajo cualquier contrato de fletamento.

Cada permiso temporal de navegación de cabotaje tendrá una duración de tres meses y ningún permiso para una misma embarcación podrá ser renovado en más de siete ocasiones.

Artículo 111.- Se consideran contratos de utilización de embarcaciones:

I. De arrendamiento a casco desnudo;

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PROCESO DE FLETAMENTO
DE LA MARITIMA

- II. De fletamento por tiempo;
- III. De fletamento por viaje,
- IV. De transporte marítimo de mercancías;
- V. De transporte marítimo de pasajeros,
- VI. De remolque transporte, y
- VII. Cualquier otro contrato de naturaleza marítima en virtud del cual se utilice una embarcación o un determinado espacio de ésta.

Es así que es necesario tomar en consideración que el fletamento a casco desnudo es un tipo de contrato del transporte marítimo, el cual se encuentra previsto en el Decreto de promulgación del convenio de las Naciones Unidas sobre las Condiciones de Inscripción de los Buques, adoptado en la ciudad de Ginebra, Suiza, el 7 de febrero de 1986, el cual en lo principal en sus artículos 2 y 12 establecen:

ARTICULO 2...

Se entiende por "buque" cualquier embarcación con medios de propulsión propios destinada a la navegación marítima que se utiliza en el comercio marítimo internacional para el transporte de carga o pasajeros, o de ambos, independientemente de las embarcaciones de menos de 500 toneladas de desplazamiento bruto.

Se entiende por "Estado del pabellón" el Estado cuya bandera enarbola y en el cual el buque está autorizado a enarbolar un buque; (...)

Se entiende por "naviero" el propietario o el arrendatario a casco desnudo, o cualquier otra persona natural o jurídica a la que se hayan asignado formalmente las obligaciones del propietario o del arrendatario a casco desnudo;

Se entiende por "arrendamiento a casco desnudo" un contrato de arrendamiento de un buque por un tiempo determinado, en virtud del cual el arrendatario tiene la posesión y el control plenos del buque, incluido el derecho a designar el capitán y la tripulación por el periodo de arrendamiento;

Artículo 12 Arrendamiento a casco desnudo

1. Sin perjuicio de lo dispuesto en el artículo 11 y de conformidad con sus leyes reglamentos, un Estado podrá conceder la inscripción y el derecho de enarbolar su pabellón, a un buque tomado en arrendamiento a casco desnudo por un arrendatario en ese Estado, durante el periodo del arrendamiento.

2. Cuando propietarios o arrendatarios en Estados Partes en el presente Convenio realicen tales actividades de arrendamiento a casco desnudo, se deberían cumplir plenamente las condiciones de inscripción contenidas en el presente Convenio.

afectar el orden público, ni el interés social, es por ello que resulta pertinente acordar a favor a la solicitud realizada por tal persona, ya que en el caso que esta Representación social de la federación fuera omiso al acordar a tal solicitud, se pone en riesgo de causar un perjuicio patrimonial a la persona moral Shipping Group México Sgm S.A de C.V.", y demás grupo de empresas que dependen de la embarcación CABALLO MAYA y la empresa propietaria de la misma, se encuentran en un riesgo latente que los mismos puedan caer en incumplimiento de sus pagos y contratos pactados con anterioridad a la medida de aseguramiento ministerial de esta embarcación; ante lo cual con la finalidad de evitar un daño patrimonial y toda vez que esta embarcación se encuentra desarrollando actividades lícitas que no afectan al orden público e interés social resulta pertinente conceder la depositaria a favor del Oscar Israel Garcia Cordova, Apoderado Legal de "Shipping Group México Sgm S.A de C.V.", con la finalidad de que la embarcación CABALLO MAYA, quede bajo su posesión para que en primer lugar tenga el mantenimiento y los cuidados adecuados y puedan seguir desarrollando sus

1954年10月1日 星期日

ORDEN PUBLICO. La A. J. K. P. (página 1000), la cual a la letra señala
INDETERMINADO QUE ES UN CONCEPTO JURIDICO
CONCRETO, ATENDIENDO A LAS REGLAS MINIMAS DE
CONVIVENCIA SOCIAL ACTUALIZA EN CADA CASO
que pueda configurarse a partir de la declaración formal contenida
en una ley. Por el contrario, la declaración formal contenida
Supremo. Tanto el contenido de la declaración formal contenida
juzgado, en tanto en la declaración formal contenida
fuente que el contenido de la declaración formal contenida
imponer a la persona en cada caso concreto, de tal
las circunstancias cuyo contenido en cada caso concreto, de tal
momento en que no existe la valoración de los hechos, para darle
significado a los hechos, tiempo y lugar que prevalecen en el
ordenamiento jurídico. La valoración de los hechos, para darle
las reglas mínimas de convivencia social, en la inteligencia de que
la declaración formal contenida en la declaración formal contenida
en materia de convivencia social, en la inteligencia de que
traducen las disposiciones subjetivas, sino en elementos objetivos que
siempre buscando las disposiciones fundamentales de la sociedad,
tercer. CUARTO TRIBUNAL COLEGIADO EN MATERIA
ADMINISTRATIVA DEL PRIMER CIRCUITO Amparo directo
317/2004 Alberto Salmerón Pineda 12 de enero de 2005.
Unanimidad de votos Ponente Jesus Antonio Nazar Sevilla.
Secretario Ernesto González González Amparo directo 453/2004.
Hospital Angeles del Pedregal, S.A. de C.V. 23 de febrero de 2005.
Unanimidad de votos Ponente Jesus Antonio Nazar Sevilla.
Secretaria Indira Martínez Fernández.

Caballo Maya 000072

PGR

PROCURADURÍA GENERAL
DE LA REPÚBLICA
 Subprocuraduría Especializada en
Investigación de Delitos contra el Patrimonio

SEPTIMO.- En ese orden de ideas, tomando en consideración que la empresa "Shipping Group México Sgm SA de CV, de dicada a la adquisición de embarcaciones que provean a PETRÓLIOS MEXICANOS de servicios Marítimos en general, tiene los medios suficientes para el mantenimiento y preservación de la embarcación evitando con ello el deterioro del bien mueble asegurado, por lo que se considera procedente acordar la depositaria solicitada por C. Oscar Israel Garcia Cordova, Apoderado Legal de "Shipping Group México Sgm SA de CV

Dicha Depositaria deberá ser desarrollada tomando en cuenta en todo momento lo establecido en el Código Federal de Procedimientos Penales en el Artículo 182-L, el cual establece "... Los inmuebles que se aseguren podrán quedar en posesión de su propietario, poseedor o de alguno de sus ocupantes, siempre y cuando no se afecte el interés social ni al orden público. Quienes queden en posesión de los inmuebles no podrán enajenar o gravar los inmuebles a su cargo, y en caso de que generen frutos o productos estarán obligados en los términos de los artículos 12 y 15 de la Ley Federal para la Administración y Enajenación de Bienes del Sector Público..."

Asimismo con la finalidad que el C. Oscar Israel Garcia Cordova, Apoderado Legal de "Shipping Group México Sgm S.A de C.V., pueda desarrollar de manera correcta la depositaria que tiene a su cargo, desde este momento se dejan sin efectos otras depositarias que podrían estar llevándose a cargo sobre la embarcación CABALLO MAYA

Lo anterior, por ser necesario para la debida integración de la presente Averiguación Previa, y con fundamento en los artículos 16, 21 y 102 apartado "A" de la Constitución Política de los Estados Unidos Mexicanos; 2 fracción II, 181, 182, 182-A, 182-L y 208 del Código Federal de Procedimientos Penales; 40 y 41 del Código Penal Federal; 1 y 31 de la Ley Federal Contra la Delincuencia Organizada; 1 y 4 apartado A) incisos a), b), c), e), h) y n), apartado B), inciso b) de la Ley Orgánica de la Procuraduría

inciso A) fracción III F) fracción III y 31 de su
párrafo, 6, 7, 8 y 10 de la Ley Federal para la Administración y Enajenación
de Bienes del Sector Público y Acuerdo A/011/00 emitido por el C.
Procurador General de la República es de resolverse y se

RESUELVE

PRIMERO. Se designa como depositario de la embarcación CABALLO
MAYA con IMO 9453341, matrícula Patente Reglamentaria de Navegación
número 000081740, al C. Oscar Israel Garcia Cordova, Apoderado Legal de
"Shipping Group México Sgm S.A de C.V en términos del artículo 182 L, la
cual quedara desde este momento en posesión del mismo, toda vez que no
se afecte el orden público al quedar en posesión del mismo, con la
condición de que no podrán enajenar o gravar y deberá mantener en
buenas condiciones la embarcación señalada, hasta el momento en que se
decrete el destino legal del bien asegurado.

SEGUNDO. Notifíquese personalmente el presente acuerdo ministerial al C.
Oscar Israel Garcia Cordova, Apoderado Legal de "Shipping Group México
Sgm S.A de C.V con los apercibimientos y condiciones establecidas en el
artículo 182 L del Código Federal de Procedimientos Penales.

TERCERO.- Gírese atento oficio al Director General de Marina Mercante de la
Secretaría de Comunicaciones y Transportes, con la finalidad de que se realice
las anotaciones conducentes de que designa como depositario de la
embarcación CABALLO MAYA con IMO 9453341, matrícula Patente
Reglamentaria de Navegación número 000081740, al C. Oscar Israel Garcia
Cordova, Apoderado Legal de "Shipping Group México Sgm S.A de C.V en
términos del artículo 182 L, la cual quedara desde este momento en posesión
del mismo.

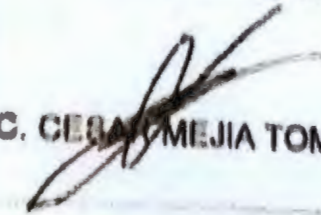
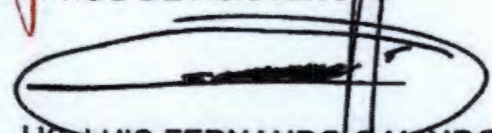
la embarcación anteriormente señalada

QUINTO: Altraa alento ofico al Servicio de Administración y Enajenación de Bienes, con la finalidad de que realice los trámites correspondientes y señale día y hora para la entrega en depositaria de la embarcación CABALLO MAYA con IIA 040141, matrícula Patente Reglamentaria de Navegación número al 1111111111, a cargo de la Comandante Cordova, Apoderado Legal de "Shipping Group México S de RL de CV", en cumplimiento del artículo 182 L, la cual quedara desde este momento en posesión del mismo con la finalidad de que de por terminada la custodia solicitada sobre la embarcación anteriormente señalada

CUMPLASE

ABI LO ACORDO Y FIRMA EL SUSCRITO LICENCIADO GABRIEL CRUZ CRUZ, AGENTE DEL MINISTERIO PÚBLICO DE LA FEDERACIÓN, ADSCRITO A LA UNIDAD ESPECIALIZADA EN INVESTIGACIÓN DE OPERACIONES CON RECURSOS DE PROCEDENCIA ILÍCITA Y DE FALSIFICACION O ALTERACION DE MONEDA, QUIEN ACTUA LEGALMENTE CON DOS TESTIGOS DE ASISTENCIA QUIENES AL FINAL FIRMAN Y DAN FE.

DAMOS FE

<p>TESTIGO DE ASISTENCIA.</p> <p></p> <p>C. CEBALLOS MEJIA TOME</p>	<p>TESTIGO DE ASISTENCIA.</p> <p></p> <p>LIC. LUIS FERNANDO GALINDO VERA</p>
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**Sub-office Specialized in the
Investigation of Organized Crime**
Unit Specialized in the Investigation of Operations with Illegal
Resources and Currency Alterations or Falsifications

pA.P UEIORPIFAM/AP/065/2014

**CERTIFICATE OF DELIVERY AS DEPOSITORY OF THE "CABALLO MAYA" SHIP, PERFORMED BY THE
ATTORNEY GENERAL'S OFFICE (PGR) TO SHIPPING GROUP MEXICO, SGM, VARIABLE-CAPITAL
PRIVATE EQUITY FIRM. -----**

In Ciudad del Carmen, state of Campeche, on July twentieth, two thousand and fifteen, meeting in the Sub-Office of the General Attorney's Office, located on Calle 41 B, numero 2, colonia Centro, Ciudad del Carmen, state of Campeche, the **Attorney, Gabriel Cruz Cruz**, in his capacity as Public Ministry Agent assigned to the Unit Specialized in the Investigation of Operations with Illegal Resources and Currency Alterations or Falsifications, in the Sub-Office Specialized in the Investigation of Organized Crime, of the Attorney General's Office, who identifies himself with the institutional ID issued by the Attorney General's Office, number 567428 and the Attorney **OSCAR ISRAEL GARCIA CORDOVA**, legal representative of the company "**SHIPPING GROUP MEXICO, SGM, Variable-Capital Private Equity Firm**", under the terms of the notarial instrument number 108,946, book 1426, page 099, year 2014, witnessed by the Notary Public number 79 of the State of Mexico, Raul Name Neme, who identifies himself with the voting credential with photograph and elector code GRCROS74081009H900, issued by the Federal Electoral Institute to perform the depository of the ship called "**CABALLO MAYA**". Also, the attorney Norma Romero Mendoza, Legal Coordination Office of Seized Companies and Commercial Bankruptcy of the Assets Administration and Alienation Service (SAE). -----

--- The eyewitnesses are, according to what is established on Article 16 of the Federal Criminal Procedures Code, the citizens Jose Alberto Cruz Lemus and Hector Hugo Rios Torres, who identify themselves with the institutional credential number 566395 and 589264, respectively, according to the following: -----

----- **RECITALS** -----

1. On February 27th, 2014, the Attorney General decreed the seizure, within the prior inquiry UEIORPIFAM/AP/065/2014, of the company called Oceanografia S.A. de C.V., and everything that by fact and by law belongs to it, including the seizure of the ship "**CABALLO MAYA**", which is the subject of this certificate as depository. -----
2. On February 28th, 2014, the Legal Coordination Office of Seized Companies and Commercial



Reported by:
D. SANDERS, CSR, RDR, CRR, CCR (LA)

**Caballo Maya 000076
(Translated)**

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**Sub-office Specialized in the
Investigation of Organized Crime**
Unit Specialized in the Investigation of Operations with Illegal
Resources and Currency Alterations or Falsifications

8. Through the appearance on July 7th, 2015, the citizen Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico SGM, Variable-Capital Private Equity Firm" stated that he doesn't reserve any legal action against the Attorney General's Office and the Assets Administration and Alienation Service, which belongs to the Ministry of Finances and Public Credit. He also accepts the work load he will receive along with said delivery as depository.-

FACTS

FIRST. Based on Articles 16, 21 and 102, Section "A" of the Political Constitution of the United Mexican States; 2, section II, 181, 182, 182-A, 182-L and 208 of the Federal Criminal Procedures Code, 40 and 41 of the Federal Criminal Code, 1 and 31 of the Federal Law Against Organized Crime; 1 and 4, section A) subsections a), b), c), e), h) and ñ), section B), subsection b) of the Organic Law of the Attorney General's Office; 3, section A), section III F) section III and 31 of its Regulations; 1, section I, first paragraph, 2 sections II and VIII, 3, 5, first paragraph, 6, 7, 8 and 10 of the Federal Law for the Assets Administration and Alienation Service of the Public Sector and Agreement A/011/00 issued by the Attorney General, Gabriel Cruz Cruz, as agent of the Public Ministry, assigned to the Unit Specialized in the Investigation of Operations with Illegal Resources and Currency Alterations or Falsifications, in the Sub-office Specialized in the Investigation of Organized Crime of the Attorney General's Office, delivers as depository to the citizen Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico SGM, Variable-Capital Private Equity Firm", the ship called "**CABALLO MAYA**", so that he may guard it, protect it and keep it in good conditions. He is informed that he may not alienate or encumber the ship, and he must hire the necessary insurance for any incident that may be suffered by the aforementioned ship. He must provide a monthly report of the state of the ship and how it's been used and must make things convenient for the ship called "**CABALLO MAYA**" to be supervised and monitored. Also, he will not turn the Automatic Identification System (AIS) off and must report its geographical location and destination at most every twelve hours to "Maritime Control" of Petroleos Mexicanos; he may continue using the ship as the prior administrator had been doing it, and if said use produces income, he will be bound by the terms established in Articles 12 and 15 of the Federal Law for the Assets Administration and Alienation of the Public Sector and 182-E of the Federal Criminal Procedures Code. In any case, the legitimate rights of third parties over the ship called "**CABALLO MAYA**" will be respected. The ship has the following specifications: -----

X

**Sub-office Specialized in the
Investigation of Organized Crime**
Unit Specialized in the Investigation of Operations with Illegal
Resources and Currency Alterations or Falsifications

TYPE OF DELIVERY	IMO	DESCRIPTION	PHYSICAL CONDITION
DEPOSITORY	9453341	<u>SHIP CALLED CABALLO MAYA</u> , REGISTRATION 4243011 WITH THE FOLLOWING SPECIFICATIONS: LENGTH OVERALL 141.1 M, BEAM 25.0 M, HEIGHT TO MAIN DECK 90 M, OPERATION DRAFT 9.0 M, DEAD WEIGHT 7,920.5 TON, GROSS TONNAGE 12,901, NET TONNAGE 3,670.	REGULAR

Also, it is informed that the ship called "**CABALLO MAYA**" must remain in National Waters and must be delivered, returned or restituted when this Corporation Representative requests it.-----

The citizen Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico SGM, Variable-Capital Private Equity Firm", receives to his full satisfaction and accepts the depository, and agrees to guard and protect the ship called "**CABALLO MAYA**", to keep it in National Waters, and to deliver it, return it or restitute it when requested by the Representation; he will be responsible for any expenses produced, and will give it the best maintenance possible, keeping it in good conditions, without requesting any sort of reimbursements for the deposit, he will be responsible for any damage or harm suffered by the seized asset due to his malice or negligence, and is required to provide a monthly report of the state of the ship and how it has been used. And he will do anything necessary for the ship to be supervised and monitored. He also states that he will hire any insurance necessary to protect it against any incident that may be suffered by the ship called "**CABALLO MAYA**". He also won't turn off the Automatic Identification System (AIS) and will report its geographical location to "Maritime Control" at Petroleos Mexicanos at the most every twelve hours. He also agrees to perform activities according to the legal stipulations, understanding that if this is not fulfilled, the depository will be removed, and he will be required to return the ship called "**CABALLO MAYA**", within twenty-four hours from the moment in which the corresponding notification is received, regardless of the legal actions that may be updated. -----

delivered

SECOND. The attorney, Gabriel Cruz Cruz, agent of the Public Ministry assigned to the Unit Specialized in the Investigation of Operations with Illegal Resources and Currency Alterations or Falsifications, in the Sub-office Specialized in the Investigation of Organized Crimes of the Attorney General's Office, and the citizen Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico SGM, Variable-Capital Private Equity Firm", jointly state that, before signing this certificate, the ministry's personnel, with the help of the official experts of the valuation institution, who issued the Valuation Sentence on April first, two thousand and fourteen regarding the ship, performed the validation and verification of the assets on board, and in general, of the "**CABALLO MAYA**" ship, regarding the aforementioned sentence, and the corresponding inventory. No elements were missing and there is nothing to be reported in this certificate. -----

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**Sub-office Specialized in the
Investigation of Organized Crime**
Unit Specialized in the Investigation of Operations with Illegal
Resources and Currency Alterations or Falsifications

THIRD. Also, the citizen Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico SGM, Variable-Capital Private Equity Firm", is informed of the legal and operational process regarding the ship. These are described in (ANNEX 1). -----

FOURTH. The citizen Oscar Israel Garcia Cordova, legal representative of "Shipping Group Mexico SGM, Variable-Capital Private Equity Firm", receives from the attorney Gabriel Cruz Cruz, in his capacity as agent of the Public Ministry assigned to the Unit Specialized in the Investigation of Operations with Illegal Resources and Currency Alterations or Falsifications, in the Sub-office Specialized in the Investigation of Organized Crime of the Attorney General's Office, the ship called "**CABALLO MAYA**", which is the subject of this certificate, under the physical and legal conditions in which it is found, releasing the Attorney General's Office, the Assets Administration and Alienation Service to Oceanografia S.A. de C.V. to the officers, representatives, assistants and administrators of the, related directly or indirectly to the ship's administration, of any responsibility stemming from said administration, and agrees to hold them harmless of any controversy that may arise. -----

FIFTH. Also, it is established that all the elements necessary to prepare this certificate were provided without any omissions, and no issue or relevant aspects were omitted. -----

CERTIFICATE CLOSING

After having read this certificate in depository, and with nothing left to state, the certificate is deemed concluded on the date noted, with all the intervening parties signing all pages on the margin and at the end of this page. -----

XXXXX
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XXXXX
[Seal]
ATTORNEY
GENERAL'S
OFFICE
SUB-OFFICE
SPECIALIZED IN
THE
INVESTIGATION
OF ORGANIZED
CRIME
UNIT SPECIALIZED
IN THE
INVESTIGATION
OF OPERATIONS
WITH ILLEGAL
RESOURCES AND
CURRENCY
ALTERATIONS OR
FALSIFICATIONS

DELIVERED
Public Ministry Agent of the
Attorney General's Office

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
[Signature]

GABRIEL CRUZ CRUZ ESQ.

RECEIVED
Legal Representative of "Shipping
Group Mexico Sgm, Variable-Capital
Private Equity Firm"

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
[Signature]

C. OSCAR ISRAEL GARCIA CORDOVA

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**Sub-office Specialized in the
Investigation of Organized Crime**
Unit Specialized in the Investigation of Operations with Illegal
Resources and Currency Alterations or Falsifications

PARTICIPATES

Legal Coordination Office of Seized Companies and Commercial Bankruptcy of the SAE.

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

[Signature]

NORMA ROMERO MENDOZA ESQ.

EYEWITNESSES

EYEWITNESS

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

[Signature]

HECTOR HUGO RIOS TORRES ESQ.

XXXXX

XXXXX

XXXXX

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[Seal]

ATTORNEY GENERAL'S
OFFICE

SUB-OFFICE SPECIALIZED IN
THE INVESTIGATION OF
ORGANIZED CRIME
UNIT SPECIALIZED IN THE
INVESTIGATION OF
OPERATIONS WITH ILLEGAL
RESOURCES AND
CURRENCY ALTERATIONS
OR FALSIFICATIONS

EYEWITNESS

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

[Signature]

JOSE ALBERTO CRUZ LEMUS ESQ.

Last page of the certificate of delivery as depository of the "Caballo Maya" ship, signed on July
twentieth, 2015. -----

IN MEXICO CITY, ELEVEN - ON MAY 11TH, 2016
THE UNDERSIGNED ATTORNEY Gabriel Cruz Cruz
PUBLIC MINISTRY AGENT ASSIGNED TO THE UNIT SPECIALIZED IN THE INVESTIGATION OF
OPERATIONS WITH ILLEGAL RESOURCES AND CURRENCY ALTERATIONS OR FALSIFICATIONS, WHO
ACTS LEGALLY BEFORE THE EYEWITNESSES WHO SIGN AT THE BOTTOM AND ATTEST.

----- C E R T I F I E S -----
THAT THIS COPY CONSISTS OF 20 USED PAGES AND IT IS A FAITHFUL AND EXACT COPY OF THE
ORIGINAL, WHICH WAS AVAILABLE AND IS FOUND AT THE A.P. UEIORPIFAM/AP/065/2014,
WHICH IS ATTESTED UNDER THE TERMS OF ARTICLE 208 OF THE FEDERAL CRIMINAL PROCEDURES
CODES. -----

----- WE ATTEST -----
THE PUBLIC MINISTRY AGENT
EYEWITNESS ----- EYEWITNESS

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
[Signature]

**LEONARDO DANIEL ARAUJO
SANCHEZ ESQ.**

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
[Signature]

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ATTORNEY GENERAL'S OFFICE
SUB-OFFICE SPECIALIZED IN THE
INVESTIGATION OF ORGANIZED
CRIME
UNIT SPECIALIZED IN THE
INVESTIGATION OF OPERATIONS
WITH ILLEGAL RESOURCES AND
CURRENCY ALTERATIONS OR
FALSIFICATIONS

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
[Signature]

TANIA MAGALY AGUILERA

Subprocuraduría Especializada en
Investigación de Delincuencia Organizada
Unidad Especializada en Investigación de Operaciones con
Recursos de Procedencia Ilícita y de Falsificación o Alteración de
Moneda

PA.P. UEIORPIFAM/API/065/2014

**ACTA DE ENTREGA EN DEPOSITARIA DE LA EMBARCACIÓN
DENOMINADA "CABALLO MAYA", QUE REALIZA LA PROCURADURÍA
GENERAL DE LA REPUBLICA (PGR), A LA EMPRESA SHIPPING GROUP
MÉXICO, SGM, SOCIEDAD ANÓNIMA PROMOTORA DE INVERSIÓN DE
CAPITAL VARIABLE.**

En Ciudad del Carmen, Estado de Campeche, en el día veinte de julio del año dos mil quince, reunidos en la Subsección de la de la Procuraduría General de la República, sito en Calle 41 B, número 2, colonia Centro, Ciudad del Carmen, Estado de Campeche, el Licenciado **Gabriel Cruz Cruz**, con el carácter de agente del Ministerio Público de la Federación, adscrito a la Unidad Especializada en Investigación de Operaciones con Recursos de Procedencia Ilícita y de Falsificación o Alteración de Moneda, en la Subprocuraduría Especializada en Investigación de Delincuencia Organizada, de la Procuraduría General de la República, quien se identifica con credencial institucional expedida por el Procuraduría General de la República número 567428 y el Licenciado **OSCAR ISRAEL GARCIA CORDOVA**, apoderado legal de la empresa **"SHIPPING GROUP MÉXICO, SGM, Sociedad Anónima Promotora de Inversión de Capital Variable"**, en términos del instrumento notarial número 108,946, libro 1,406 folio 099, año 2014, pasada ante la fe pública del Titular de la Notaría número 19 del Estado de México, Licenciado Raúl Name Neme, quien en este acto se identifica con credencial para votar con fotografía con clave de elector **GROR0674081009H900**, expedida por el Instituto Federal Electoral, con el objeto de llevar a cabo la depositaria de la embarcación denominada **"CABALLO MAYA"**. Participa también la Licenciada Norma Romero Mendoza, Coordinadora Jurídica de Empresas Aseguradas y Concursos Mercantiles del Servicio de Administración y Enajenación de Bienes (SAE).

Intervienen como testigos de asistencia de conformidad con lo dispuesto en el artículo 16 del Código Federal de Procedimientos Paneles, los CC. José Alberto Cruz Lemus y Hector Hugo Rios Torres, quienes se identifican con credencial institucional número 566395 y 589264, respectivamente, al tenor de los siguientes:-----

ANTECEDENTES

1.- El 27 de febrero de 2014, la Procuraduría General de la República decretó el aseguramiento, dentro de la averiguación previa UEIORPIFAM/API/065/2014, de la empresa denominada Oceanografía, S.A. de C.V., con todo lo que de hecho y por derecho le corresponde, incluyendo el aseguramiento de la embarcación **"CABALLO MAYA"**, que es objeto de la presente acta en depositaria.

2.- El 28 de febrero de 2014, la Coordinación Jurídica de Empresas Aseguradas y Concursos Mercantiles del Servicio de Administración y

Enajenación de Bienes (SAE), emitió dictamen jurídico de procedencia número DCEAF/DEAECM/CJEACM/017/2014, para la transferencia de la empresa Oceanografía, S.A. de C.V., con todo lo que de hecho y por derecho le corresponde.

3.- El 2 de marzo de 2014, mediante acta número A/PGR/ADM/DEAECM/DEAECM/001/14/03, el Servicio de Administración y Enajenación de Bienes (SAE), recibió de la Subprocuraduría Especializada en Investigación de Delincuencia Organizada (SEIDO) de la Procuraduría General de la República (PGR), la empresa Oceanografía S.A. de C.V., con todo lo que de hecho y por derecho le corresponde.

4.- Mediante oficio CGIIF3/0565/2014 (sic) del 01 de abril de 2014, la Unidad Especializada en Investigación de Operaciones con Recursos de Procedencia Ilícita y de Falsificación o Alteración de Moneda (UEIORPIFAM), envió al Servicio de Administración y Enajenación de Bienes (SAE) las diligencias ministeriales relacionadas, entre otros, con la embarcación que es objeto de la presente acta.

5.- El 02 de julio del año 2015, se recibió escrito signado por el C. Oscar Israel García Córdova, apoderado legal de "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, por medio del cual solicita la entrega en depósito de la embarcación "CABALLO MAYA", para estar en posibilidad de darle el mejor mantenimiento posible y preservar en buenas condiciones al bien mientras está asegurado, ya que el mismo se está deteriorando físicamente.

6.- Con esa misma fecha compareció el C. Oscar Israel García Córdova, apoderado legal y en representación de la empresa "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, a efecto de ratificar en todas y cada una de sus partes el escrito de 02 de julio de 2015, por medio del cual solicita la entrega en depositaria de la embarcación "CABALLO MAYA".

7.- El 03 de julio del año 2015, se acordó dentro de la averiguación previa A.P. UEIORPIFAM/AP/065/2014, designar como depositario de la embarcación "CABALLO MAYA" con IMO 9453341, matrícula Patente Reglamentaria de Navegación número 000081740, al C. Oscar Israel García Córdova, apoderado legal, en representación de "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, en términos del artículo 182-L del Código Federal de Procedimientos Penales, la cual quedará desde este momento en posesión del mismo, toda vez que no se afecta el orden o interés público al quedar en posesión del mismo, con la obligación de que no podrán enajenar o gravar, y deberá mantener en buenas condiciones físicas la embarcación señalada, hasta el momento en que se decreta el destino legal del bien asegurado.

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8.- Mediante comparecencia de 07 de julio del 2015, C. Oscar Israel García Córdova, apoderado legal y en representación de "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, manifestó que no se reserva cualquier acción legal en contra de la Procuraduría General de la República y del Servicio de Administración y Enajenación de Bienes perteneciente a la Secretaría de Hacienda y Crédito Público, así mismo acepta la carga laboral que se suscite con dicha entrega en depositaria -----

-----HECHOS-----

PRIMERO.- Con fundamento en los artículos 16, 21 y 102 apartado "A" de la Constitución Política de los Estados Unidos Mexicanos; 2 fracción II, 181, 182, 182-A, 182-L y 208 del Código Federal de Procedimientos Penales, 40 y 41 del Código Penal Federal, 1 y 31 de la Ley Federal Contra la Delincuencia Organizada; 1 y 4 apartado A) incisos a), b), c), e), h) y ñ), apartado B), inciso b) de la Ley Orgánica de la Procuraduría General de la República; 3 inciso A) fracción III F) Tracción III y 31 de su Reglamento; 1, fracción I, primero párrafo, 2 fracciones II y VIII, 3, 5 primer párrafo, 6, 7, 8 y 10 de la Ley Federal para la Administración y Enajenación de Bienes del Sector Público y Acuerdo A/011/00 emitido por el C. Procurador General de la República, el Licenciado Gabriel Cruz Cruz, como agente del Ministerio Público de la Federación, adscrito a la Unidad Especializada en Investigación de Operaciones con Recursos de Procedencia Ilícita y de Falsificación o Alteración de Moneda, en la Subprocuraduría Especializada en Investigación de Delincuencia Organizada de la Procuraduría General de la República, entrega en depositaria al C. Oscar Israel García Córdova, apoderado legal y en representación de "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, la embarcación denominada "CABALLO MAYA"; con el propósito de que la custodie, resguarde, preserve en buenas condiciones, haciéndole del conocimiento que no podrán enajenar o gravar la embarcación a su cargo, además que deberá contratar los seguros necesarios para cualquier siniestro que pudiera sufrir la embarcación de referencia, deberá rendir un informe mensual sobre el estado que guarde la embarcación y sobre la utilización de la misma, y dar todas las facilidades para su supervisión y vigilancia del barco de nombre "CABALLO MAYA"; de la misma forma no apagar el Sistema de Identificación Automática (AIS) y reportar su ubicación geográfica y destino máximo cada doce horas a "Control Marítimo de Petróleos Mexicanos"; y podrá realizar su explotación como lo venía haciendo su anterior administrador; y en caso de que con motivo de dicha explotación se generen frutos o productos, la Administración y Enajenación de Bienes del Sector Público y 182- E del Código Federal de Procedimientos Penales. En todo caso, se respetarán los derechos legítimos de terceros de la embarcación denominada "CABALLO MAYA", que tiene las siguientes especificaciones:-----

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TIPO DE ENTREGA	IMO	DESCRIPCIÓN	ESTADO FÍSICO
DEPOSITARIA	9453341	BUQUE DENOMINADO CABALLO MAYA MATRÍCULA 82480 11 CON LAS SIGUIENTES ESPECIFICACIONES: LARGO 141.1 M MANTE 28.0 M PUNTA A CUERTA PRINCIPAL 9.0 M CALADO DE OPERACIÓN 9.0 M PESO MUERTO 19205 TON ANQUEO DE 12,001 ANQUEO NI TO 3 670	REGULAR

Así mismo se le hace del conocimiento que la embarcación denominada "CABALLO MAYA", deberá permanecer en Aguas Nacionales y entregarla, devolverla o restituirla cuando así se lo solicite esta Representación Social de la Federación

El C. Oscar Israel García Córdova, apoderado legal, en representación de "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, recibe a su entera satisfacción y acepta la depositaria encomendada y se obliga a custodiar, resguardar la embarcación denominada "CABALLO MAYA", tenerlo o permanecer en Aguas Nacionales y entregarla, devolverla o restituirla cuando se lo solicite la Representación de la Federación, haciéndose cargo de los gastos que genere, darle el mejor mantenimiento posible y preservar en buenas condiciones la embarcación sin solicitar reembolso alguno por el depósito, responder del menoscabo, daño y perjuicio que el bien depositado sufra por su malicia o negligencia, así mismo se obliga a rendir un informe mensual sobre el estado que guarde la embarcación y sobre la utilización de la misma, y dar todas las facilidades para su supervisión y vigilancia, igualmente manifiesta que contratara los seguros que sean necesarios para cualquier siniestro que pudiera sufrir la embarcación denominada "CABALLO MAYA", de la misma forma no apagar el Sistema de Identificación Automática (AIS) y reportar su ubicación geográfica máximo cada doce horas a "Control Marino de Petróleos Mexicanos", igualmente se compromete a realizar actividades de acuerdo a las disposiciones legales, entendiendo que en caso contrario, se revocará la depositaria y deberá entregar la embarcación denominada "CABALLO MAYA", en un término de veinticuatro horas, contados a partir de que reciba la notificación correspondiente, independientemente de las acciones legales que pudieran actualizarse en su momento.

SEGUNDO.- El Licenciado Gabriel Cruz Cruz, como agente del Ministerio Público de la Federación adscrito a la Unidad Especializada en Investigación de Operaciones con Recursos de Procedencia Ilícita y de Falsificación o Alteración de Moneda, en la Subprocuraduría Especializada en Investigación de Delincuencia Organizada de la Procuraduría General de la República, y el C. Oscar Israel García Córdova, apoderado legal y en representación de "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, manifiestan conjuntamente que previo a la firma de la presente acta, el personal ministerial auxiliado por peritos oficiales de la institución en materia de Valuación, quienes emitieron el dictamen de Valuación del día uno de abril del dos mil catorce, respecto de la embarcación que nos ocupa; realizaron la validación y verificación de los bienes que se encuentran a

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bordo y en general de la embarcación "CABALLO MAYA" respecto del citado dictamen, así como del inventario respectivo, no habiendo ningún faltante o hecho que señalar en la presente acta.-----

TERCERO. Así mismo se le informa al C. Oscar Israel García Córdova, apoderado legal y en representación de "Shipping Group México Sgm Sociedad Anónima Promotora de Inversión de Capital Variable, los procesos jurídicos y operativos relacionados la embarcación; mismos que se describen en el (ANEXO 1).-----

CUARTO. El C. Oscar Israel García Córdova, apoderado legal y en representación de "Shipping Group México SGM Sociedad Anónima Promotora de Inversión de Capital Variable, recibe del Licenciado Gabriel Cruz Cruz, con carácter de agente del Ministerio Público de la Federación adscrito a la Unidad Especializada en Investigación de Operaciones con Recursos de Procedencia Ilícita y de Falsificación o Alteración de Moneda, en la Subprocuraduría Especializada en Investigación de Delincuencia Organizada de la Procuraduría General de la República, la embarcación de nombre "CABALLO MAYA", materia de la presente acta, en las condiciones físicas y jurídicas en que se encuentra, liberando al Procuraduría General de la República, al Servicio de Administración y Enajenación de Bienes, a Oceanografía, S.A. de C.V., a los funcionarios, representantes, asesores y administradores de uno y otro, relacionados directa o indirectamente con la administración de la embarcación, de cualquier responsabilidad derivada de dicha administración y se compromete a sacarlos en paz y a salvo de cualquier controversia que pudiere suscitarse.-----

QUINTO.- Así mismo se establece haberse proporcionado sin omisión alguna, todos los elementos necesarios para la elaboración de la presente acta y que no fue omitido ningún asunto o aspecto relevante.-----

CIERRE DEL ACTA -----

Prevía lectura de la presente acta en depositaria y no habiendo más que hacer constar, se da por concluida, el día de su fecha, firmando para constancia en todas sus fojas al margen y al calce los que en ella intervinieron-----

ENTREGA
agente del Ministerio Público de la
Federación de la PGR

LIC. GABRIEL CRUZ CRUZ

RECIBE
Apoderado Legal de "Shipping Group
México Sgm Sociedad Anónima
Promotora de Inversión de Capital
Variable

C. OSCAR ISRAEL GARCIA
CORDOVA

Subprocuraduría Especializada en
Investigación de Delitos Económicos
Unidad Especializada en Investigación de Operaciones con
Recursos de Procedimiento Ilícito y de Falsificación o Alteración de
Moneda

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PARTICIPA
Coordinadora Jurídica de Empresas Aseguradas y Concursos Mercantiles del SAE
LIC. NORMA ROMERO MENDOZA

TESTIGOS DE ASISTENCIA

TESTIGO

SECRETARÍA DE LA REPÚBLICA
UNIDAD ESPECIALIZADA EN
INVESTIGACIÓN DE DELITOS ECONÓMICOS
UNIDAD ESPECIALIZADA EN INVESTIGACIÓN DE
OPERACIONES CON RECURSOS
ILÍCITOS Y DE FALSIFICACIÓN O
ALTERACIÓN DE MONEDA
LIC. HECTOR HUGO RIOS TORRES

TESTIGO

LIC. JOSE ALBERTO CRUZ LEMUS

Última hoja del acta de entrega en depositaria de la embarcación "Caballo Maya",
celebrada el día veinte de julio del año 2015.

EN LA CIUDAD DE MEXICO, ~~ONCE~~ - A 11, DE Mayo de 2016
GABRIEL CRUZ CRUZ
EL SUSCRITO(A) LICENCIADO(A) DE LA FEDERACION, ADSCRITO A LA UNIDAD
AGENTE DEL MINISTERIO PUBLICO DE LA FEDERACION, ADSCRITO A LA UNIDAD
ESPECIALIZADA EN INVESTIGACION DE OPERACIONES CON RECURSOS DE
PROCEDENCIA ILICITA Y DE FALSIFICACION O ALTERACION DE MONEDA, QUIEN ACTUA
EN FORMA LEGAL ANTE TESTIGOS DE ASISTENCIA QUE AL FINAL FIRMAN Y DAN FE.

CERTIFICA

QUE LA PRESENTE COPIA QUE CONSTA DE 20 FOJA(S) UTIL(S) ES FIEL Y EXACTA
REPRODUCCION DE SU ORIGINAL QUE SE TUDO A LA VISTA Y QUE OBRA EL LA
A.P. DE IORP/AM/AP/065/2014

DE LA CUAL SE DA FE EN TERMINOS DEL ARTICULO 208 DEL CODIGO FEDERAL DE
PROCEDIMIENTOS PENALES.

DAMOS FE

EL C. AGENTE DEL MINISTERIO PUBLICO DE LA FEDERACION
TESTIGO DE ASISTENCIA TESTIGO DE ASISTENCIA

Lic. Leonardo Daniel
Aragu
Seracher

Tonia Nageli
Aguilera

PROCURADURIA GENERAL DE LA REPUBLICA
SUBPROCURADURIA ESPECIALIZADA EN
INVESTIGACION DE DELINCUENCIA ORGANIZADA
UNIDAD ESPECIALIZADA EN INVESTIGACION DE
OPERACIONES CON RECURSOS
DE PROCEDENCIA ILICITA Y DE FALSIFICACION
O ALTERACION DE MONEDA

A.P. UEIORPIFAM/AP/065/2014

INCUMBENT OFFICER AT THE UNIT SPECIALIZED
ON THE INVESTIGATION OF OPERATIONS WITH
ILLEGAL RESOURCES AND FALSIFICATION OR
ALTERATION OF CURRENCY OF THE DEPUTY
ATTORNEY GENERAL SPECIALIZED IN THE
INVESTIGATION OF ORGANIZED CRIME OF THE
ATTORNEY GENERAL OF THE COUNTRY.



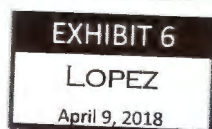
OSCAR ISRAEL GARCIA CORDOVA, in my capacity as the legal representative of the company "SHIPPING GROUP MEXICO SGM S.A. DE C.V.", previously known as "GGM SHIPPING S.A. DE C.V.", which is credited through the notarial instrument number 108,946, dated May twenty-third two thousand and fourteen, passed before Raul Name Neme, of the Notary Public number 79 in the state of Mexico, noting as the address to receive notifications and all kinds of documents the one located at Avenida de las Palmas No. 425, floor 8, Lomas de Chapultepec, Delegacion Miguel Hidalgo, Mexico, Distrito Federal, authorizing for these purposes the attorney Raul Rodriguez Resendiz, respectfully appear to:

STATE

That, through this petition, based on Articles 40 of the Federal Criminal Code; 182-N, section I and 182-N of the Federal Criminal Procedures Code, it is requested to **LIFT THE PRECAUTIONARY SEIZURE** of the vessel called "**CABALLO MAYA**", which is Panamanian, and whose OMI is 9453341, decreed on March sixth, two thousand and fourteen, by this company, and **THEREFORE, FOR IT TO BE RETURNED** because, it is the property of a third party who is not related to the facts being investigated, and is not in any of the assumptions established in Articles 400 and 400 Bis of the Federal Criminal Code.

Said vessel is under the jurisdiction of the **Military Government of Isla del Carmen, Municipality of Ciudad del Carmen, Campeche**, who will be instructed to restrict the dispatch to the navigation by virtue of the aforementioned seizure.

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Reported by:
D. SANDERS, CSR, RDR, CRR

Lopez_0931

WRIT OF LIFTING OF THE SEIZURE OF A VESSEL

Indeed, under the terms of the aforementioned articles, it is appropriate to lift the precautionary seizure of the vessel, and therefore, the asset subject to the inquiry must be returned because, an interpretation to the contrary by logical inference of Article 40 of the Federal Criminal Code, it is warned that any legal objects, instruments or products may only be seized when they belong to a third party who has obtained them under the assumptions established in Article 400 Bis of the Federal Criminal Code.

In other words, any interpretation to the contrary of the logical inference of said article of the Substantive Code in the Matter, which establishes that the objects, instruments or products of the crime may not be seized when they've been used legally and belong to a third party who didn't obtain them under any of the assumptions of Article 400 Bis of the aforementioned Code.

Therefore, if the precautionary seizure doesn't meet the requirements, it is obvious that the seizure must be lifted and the seized objects must be returned, as per Articles 182-N and 182-Ñ of the Federal Criminal Procedures Code.

These circumstances are shown in this case, by virtue that the vessel called "**CABALLO MAYA**", Panamanian, is an asset that has been legally used, and belongs to the company "**SHIPPING GROUP MEXICO SGM S.A. DE C.V.**", previously known as "**GGM SHIPPING S.A. DE C.V.**", who acquired the vessel through a purchase contract signed by MARFIELD LTD INC and GGM SHIPPING S.A. DE C.V., through their legal representatives, on October twentieth, two thousand and eleven.

Said vessel was used to provide maritime services to the parastatal company, Petroleos Mexicanos [Mexican Petroleum] (PEMEX), through the company OCEANOGRAFIA S.A. DE C.V., who had signed contracts with the latter. Hence why Oceanografia had the right to use and enjoy the vessel called CABALLO MAYA. However, that doesn't mean that Oceanografia owned the aforementioned seized vessel.



Therefore, it is appropriate to lift the seizure of the aforementioned vessel and to return it to my client because it owns the vessel. In order to credit the above, the following proof is provided:

1. Purchase contract dated March 18th, 2011, entered into by the company Marfield Ltd Inc., as the seller, and my client as the buyer, regarding the vessel called "Caballo Maya", and officialized under the category "Agreement Memorandum", under the sale format 1993, adopted by the Baltic and International Maritime Council (BIMCO) in 1956, which can be found in English and translated to Spanish, and which says:

The following is transcribed from the contract's foreword:

"Marfield Ltd. Inc., hereinafter, have today sold, and GGM Shipping S.A. de C.V., hereinafter called the Buyers, have today bought...."

".. 1. Purchase Price US\$130,000.00 (ONE HUNDRED AND THIRTY MILLION AMERICAN DOLLARS) "

".. 2. Deposit

As a security for the correct fulfillment of this contract, the Buyers shall pay a deposit of US\$5,000,000.00 (ONLY FIVE MILLION AMERICAN DOLLARS) any further payments must be made as detailed in clause 21.

All payments must be made to:

JP Morgan Chase Bank New York

For the account kept at the Oversea-Chinese Banking Corporation

Account No. 0011746047

Swift Code OCBGSGSG

Accountholder's name: Coastline Maritime Pte Ltd.

Account No. 501-216758-201..."



From the former, it is understood that the aforementioned contract, according to its nature, is a sale contract, and, in a supplementary manner, the Articles 1858, 2248 and 2249 of the Federal Civil Code are applied. Said Articles say:

Article 1858. The contracts that are not specially regulated in this Code will be governed by the general contract rules; by the stipulations established by the parties, and, if omitted, by the stipulations in the contract with which they have more analogy, from those regulated in this ordinance.

Article 2248. A sale exists when one of the contracting parties agrees to transfer the ownership of an object or a right, and the other party agrees to pay a monetary price for it.

Article 2249. As a rule, the sale is perfect and mandatory for the parties when they have agreed on the object and the price, even if the former has not been delivered yet and the later payment has not been made.

2. Proof of Bank Transfers for the payment of the price and/or financing credit of "Caballo Maya", which is mentioned in the Sale Contract described in the previous section, performed through Actinver S.A. to **Coastline Maritime Pte Ltd, Caterpillar Financial Services and Eksportfinans ASA (the last two according to the documents mentioned in the following number 3).**
3. Letter dated October 21st, 2011, with the letterhead of MARFIELD LTD INC, directed by Mr. Terry Highlands, in representation of the company Marfield Ltd Inc, to Caterpillar Financial Services Asia Pte Ltd and Eksportfinans ASA, which is in English and translated to Spanish, through which Mr. Terry Highlands, in representation of Marfield Ltd Inc., notifies said financial institutions that, regarding the credit contract between Caterpillar, Eksportfinance and Marfield Ltd Inc., there is a change of ownership for the vessel **"CABALLO MAYA", in favor of GGM SHIPPING S.A. de C.V.**, and therefore, a change in status is requested for the accredited party and the guarantors, to ratify the March 18th, 2011 sale mentioned in the previous section 1 and the credit payments made to the bank institutions mentioned in the previous section 2.
4. Proof of Panama's Maritime Registration, where it is stated that the contract mentioned in section 1 was filed in the case file kept for the "Caballo Maya" vessel.



5. Contract dated March 21st, 2011, entered into by Oceanografia S.A. de C.V., and my client, through which the first receives the use and enjoyment of the vessel to provide services to PEMEX, under the terms established in the second clause of said contract, which says:

"... As such, "OSA" will have the right to use and enjoy the Caballo Maya vessel to fulfill its contracts with PEMEX, during the term of this contract..."

In light of the foregoing, I request you, Mr. Public Ministry Agent, to please:

First. Set on record that I appeared, under the terms of this document, with the capacity I possess, and that I agreed to provide the documentation mentioned here when appearing on the day and time assigned to ratify my writing.

Second. To rule favorably regarding the **LIFT OF THE PRECAUTIONARY SEIZURE** of the vessel called **"CABALLO MAYA"**, Panamanian, with the **OMI 9453341**, decreed on March sixth, two thousand and fourteen, by this corporate representative.

Third. As a **CONSEQUENCE OF THE ABOVE, THE RETURN** of the vessel called **"CABALLO MAYA"**, with which I request you to issue a notification to the **Military Government of Puerto de Isla del Carmen, municipality of Ciudad del Carmen, Campeche**, informing them of this situation and ordering the vessel is only released to the legal representative and/or the staff and/or the crew of **SHIPPING GROUP MEXICO SGM S.A. de C.V.**

Fourth. Inform SAE of the **LIFT OF THE PRECAUTIONARY SEIZURE** of the **"CABALLO MAYA"** vessel.

Respectfully,

Mexico, D.F., May 29th, 2015.

OSCAR ISRAEL GARCIA CORDOVA



A.P. UEIORPIFAM/AP/065/2014.

C. TITULAR DE LA UNIDAD ESPECIALIZADA EN INVESTIGACIÓN DE OPERACIONES CON RECURSOS DE PROCEDENCIA ILÍCITA Y DE FALSIFICACIÓN O ALTERACIÓN DE MONEDA DE LA SUBPROCURADURÍA ESPECIALIZADA EN INVESTIGACIÓN DE LA DELINCUENCIA ORGANIZADA, DE LA PROCURADURIA GENERAL DE LA REPÚBLICA.

Presente

OSCAR ISRAEL GARCIA CORDOVA, en mi caracter de apoderado legal de la persona jurídica **"SHIPPING GROUP MEXICO SGM S.A DE C.V."** antes **"GGM SHIPPING S.A. DE C.V."**, personalidad que se acredita con el instrumento notarial número 108,946, de veintitrés de mayo de dos mil catorce, pasado ante la fe del Licenciado Raúl Name Neme, Titular de la Notaría Pública número 79 en el Estado de México, señalando como domicilio para oír notificaciones y recibir todo tipo de documentos el ubicado en la calle de Avenida de la Palmas No. 425, piso 8, Lomas de Chapultepec, Delegación. Miguel Hidalgo, México Distrito Federal, autorizando para los mismo efectos al Licenciado en Derecho Raúl Rodríguez Reséndiz, respetuosamente comparezco para:

EXPONER

Por medio del presente ocurso, con fundamento en los artículos 40, del Código Penal Federal; 182-N, fracción I, y 182-Ñ, del Código Federal de Procedimientos Penales, se solicita **EL LEVANTAMIENTO DEL ASEGURAMIENTO PRECAUTORIO**, de la embarcación denominada **"CABALLO MAYA"** con nacionalidad de la República de Panamá, con **OMI 9453341**, decretado el seis de marzo de dos mil catorce, por esta representación social, y en **CONSECUENCIA SU DEVOLUCIÓN**, ya que, son propiedad de un tercero ajeno a los hechos que se investigan y no se encuentran en ninguno de los supuestos previstos en los artículos 400 y 400 Bis, del Código Penal Federal,

Misma embarcación que se encuentra bajo la jurisdicción de la **Capitanía de Puerto de Isla del Carmen, Municipio de Ciudad del Carmen, Campeche**, a quien se le ordene restringir el despacho a la navegación en virtud de aseguramiento antes citado.

En efecto, en términos de los artículos precitados es procedente levantar el aseguramiento precautorio de la embarcación en cita, y en consecuencia devolver el bien mueble afecto a la indagatoria, ya que, de una interpretación a contrario sensu del artículo 40 de la Código Penal Federal, se advierte que solamente se podrán decomisar y en su caso asegurar en la etapa de investigación objetos, instrumentos o productos de uso lícito cuando pertenezcan a un tercero que los haya obtenido bajo algunos de los supuestos previstos en el artículo 400 Bis del Código Penal Federal.

En otras palabras, la interpretación a contrario sensu del artículo en estudio del Código Sustantivo del Materia, consistente que los objetos, instrumentos o productos del delito no se podrán asegurar cuando éstos sean de uso lícitos, y que pertenezcan a un tercero que no los haya obtenido bajo alguno uno de los supuesto del artículo 400 Bis del Código en cita.

Por consiguiente, si la medida cautelar de aseguramiento no reúne los requisitos previstos, es evidente que procedente el levamiento del aseguramiento y consecuentemente la devolución de los objetos asegurados en términos de los artículos 182-N y 182-Ñ del Código Federal de Procedimientos Penales.

Circunstancia que en la especie acontece, en virtud de que la embarcación denominada **"CABALLO MAYA"** de nacionalidad panameña, es un bien de uso lícito, el cual pertenece a la persona jurídica **"SHIPPING GROUP MEXICO SGM S.A DE C.V."** antes **"GGM SHIPPING S.A. DE C.V."**, persona que adquirió la embarcación a través de un contrato de compraventa, el cual se celebró entre MARFIEL LTD INC Y GGM SHIPPING S.A. DE C.V., a través de sus representante legales, el veinte de octubre de dos mil once.

Dicha embarcación, se utilizó para prestar servicios marítimos a la paraestatal Petroleos Mexicanos (PEMEX), a través de la empresa OCEANOGRAFÍA S.A DE C.V., quien tenía contratos celebrados con ésta última, de ahí, que Oceanografía contaba con el uso y goce de la embarcación CABALLO MAYA. Sin embargo eso no significa que la empresa Oceanografía, fuera la propietaria de la multicitada embargación asegurada.

Por lo anterior, resulta procedente el levamiento de aseguramiento de la embarcación en cita, y por consecuencia su devolución a mi representada, por la propietaria de la embarcación; A efecto de acreditar lo anterior, se ofrecen las pruebas siguientes:

1.- Contrato de Compraventa de fecha 18 de Marzo de 2011, celebrado entre la empresa Marfield Ltd Inc. como vendedor y mi representada como comprador, respecto de la embarcación denominada "Caballo Maya", realizado bajo la denominación de "Memorándum del Acuerdo" bajo el formato de venta 1993 adoptado por el Consejo Báltico Marítimo Internacional (BIMCO) en 1956, el cual se tiene en Ingles con su debida traducción al español, del que se desprende lo siguiente:

Del proemio de dicho contrato se transcribe literalmente lo siguiente:

"Marfield Ltd Inc., en lo sucesivo....., acordaron a vender, y GGM Shipping S.A de C.V. denominado en lo sucesivo los Compradores, acordaron comprar....."

"..1.- Precio de compra us\$ 130,000.00 (CIENTO TREINTA MILLONES DE DOLARES ESTADOUNIDENSES)"

"..2.- Deposito

Como depósito para el cumplimiento correcto de este Acuerdo, los compradores deberán realizar un pago de US 5,000,000.00 (CINCO MILLONES DE DOLARES ESTADOUNIDENSES UNICAMENTE)los pagos posteriores deberán hacerse como se detalla en la clausula 21.

Todos los pagos deberán realizarse a:

JP Morgan Chase Bank New York

Para la cuenta del Oversea-Chinese Banking Corporation

No. De cuenta 0011746047

Codigo Siwft OCBCSGSG

A nombre de Coastline Maritime Pte Ltd.

No. De cuenta 501-216758-201...."

De lo anterior, se desprende que el contrato citado, conforme a su naturaleza es un contrato mercantil de compraventa, siendo aplicable

de manera supletoria, los artículos 1858, 2248 y 2249 del Código Civil Federal, que a la letra dicen:

Artículo 1858. Los contratos que no estén especialmente reglamentados en este Código, se regirán por las reglas generales de los contratos; por las estipulaciones de las partes, y en lo que fueren omisas, por las disposiciones del contrato con el que tengan más analogía, de los reglamentados en este ordenamiento.

Artículo 2248. Habrá compra-venta cuando uno de los contratantes se obliga a transferir la propiedad de una cosa o de un derecho, y el otro a su vez se obliga a pagar por ellos un precio cierto y en dinero.

Artículo 2249. Por regla general, la venta es perfecta y obligatoria para las partes cuando se han convenido sobre la cosa y su precio, aunque la primera no haya sido entregada, ni el segundo satisfecho.

2.- Constancias de Transferencias Bancarias del pago del precio y/o crédito del financiamiento de "Caballo Maya", a que se refiere el Contrato de Compraventa descrito en el numeral anterior, realizadas mediante Actinver S.A. a Coastline Maritime Pte Ltd., Caterpillar Financial Services y Eksportfinans ASA. (Estas dos últimas conforme a la documental que se menciona en el numeral 3.- siguiente).

3.- Carta de fecha 21 de Octubre de 2011, con el membrete de MARFIELD LTD INC, dirigida por el Sr. Terry Highlands en representación de la empresa Marfield Ltd Inc a Caterpillar Financial Services Asia Pte Ltd y Eksportfinans ASA, la cual consta en Inglés y su traducción al Español, mediante la cual el señor Terry Highlands en representación de Marfield Ltd Inc., notifica a dichas Instituciones financieras que en relación con el contrato de crédito entre Caterpillar, Eksportfinance y Marfield Ltd Inc., existe un cambio de propietario del barco **"CABALLO MAYA" a favor de GGM SHIPPING S.A de C.V.** por lo que solicita cambiar a el acreditado y los garantes, con lo cual se ratifica la compraventa de fecha 18 de Marzo de 2011 referida en el numeral 1.- anterior y los pagos del crédito a dichas instituciones bancarias referidas en el numeral 2.- anterior.

4.- Constancia del Registro Marítimo de Panamá donde se hace constar que el contrato referido en el numeral 1.- fue archivado en el expediente relativo a la nave "Caballo Maya",

5.- Contrato de fecha 21 de Marzo de 2011, celebrado entre Oceanografía S.A de C.V. y mi representada mediante el cual se transfiere a la primera el uso y goce de la embarcación para la prestación de servicios a PEMEX, en términos de la cláusula segunda del mismo que dice:

".... En tal virtud "OSA" tendrá el uso y Goce de la embarcación Caballo Maya para el cumplimiento de los contratos con PEMEX, durante el término del presente contrato..."

En mérito de lo expuesto y fundado, a usted C. Agente del Ministerio Público de la Federación, atentamente solicito se sirva:

Primero.- Teneme por presentado en los términos del presente escrito, con la personalidad que ostento, comprometiéndome a exhibir la documentación referida en el cuerpo de este ocurso al momento de comparecer el día y hora señalados para ratificar mi escrito.

Segundo.- Acordar favorablemente mi petición sobre **EL LEVANTAMIENTO DEL ASEGURAMIENTO PRECAUTORIO**, de la embarcación denominada **"CABALLO MAYA"** con nacionalidad de la **República de Panamá**, con **OMI 9453341**, decretado el seis de marzo de dos mil catorce, por esta representación social.

Tercero.- En **CONSECUENCIA DE LO ANTERIOR LA DEVOLUCIÓN** de la embarcación denominada **"CABALLO MAYA"**, dentro de lo cual solicito se gire atento oficio a la **Capitanía de Puerto de Isla del Carmen, Municipio de Ciudad del Carmen, Campeche**, informándole dicha situación y ordenándole libere el despacho a la navegación únicamente al representante legal y/o personal y/o tripulación de **SHIPPING GROUP MEXICO SGM S.A de C.V.**

Cuarto.- Comunicar al **SAE** el **LEVANTAMIENTO DEL ASEGURAMIENTO PRECAUTORIO**, de la embarcación denominada **"CABALLO MAYA"**

Protesto a usted mi respeto.

México. D.F. a 29 de Mayo de 2015.

OSCAR ISRAEL GARCIA CORDOVA.